FORENSIC REPORT SUBSTANTIATING THE FRAUD AND WHITE COLLAR CRIME DONE BY MARTIN KASEKENDE FORMERLY CEO, NATIONAL HOUSING AND CONSTRUCTION CORPORATION AND NOW DIRECTOR IN THE NSSF SUBSIDIARY UGANDA CLAYS LIMITED, UGANDA OVER LAND ORIGINALLY TITLED IN THE NAMES OF YUSUF SUUNA KIWEWA OMULANGILA OF KANSIIRI BUSIRO BUGANDA PROVINCE, TITLED AS F.C 18454 MRV 273 FOLIO 2 AND SUPPORTED BY THE REGISTRATION OF TITLES ACT ,CAP 205 ,230 AND NOW 240 OF THE LAWS OF UGANDA,

PRODUCE BY JJUUKO JOSEPH KIYIMBA (OMULANGILA OF KANSIIRI BUSIIRO BUGANDA PROVINCE)

(REPORT OF THE UNITED STATES EIGHT MILLION DOLLAR FRAUD DONE BY MARTIN KASEKENDE AND OTHERS WHEN HESOLD THE NSSF A FORGED FREEHOLD TITLE OVER MAILO LAND AT LUBOWA IN 2003)

In determining this case, I bear in mind the established principles of law that the burden of proof is upon the Prosecution to prove the guilt of the Accused person(s) beyond all reasonable doubt. The burden never shifts to the Defence except in a few exceptional cases provided for by law. The Prosecution is enjoined to prove all the ingredients of the various offences to the required standard.

Where there is more than one Accused person as in the present case, the participation of each and every one of them has to be proved. When the Accused raises a probable Defence, the duty still remains on the Prosecution to prove that, despite the Defence, the offences were committed and that the Accused persons committed them or participated in the commission. – **Refer to Woolmington vs. Director of Public Prosecutions (1935) *AC* 462, Lubogo vs. Uganda [1965] EA 559 and Miller vs. Minister of Pensions [1947]2ALL ER 373.**

An accused has no burden to prove his/her innocence. Also refer to **S.101 Evidence Act**, which provides that "He who alleges must prove". It is trite law that an accused person is deemed innocent till he/she pleads guilty or is proven guilty. While it has been established by case law that "the standard of proof required is not proof to absolute certainty, nonetheless, the Prosecution evidence should be of such standard as leaves no logical explanation to be derived from the facts, except that the Accused committed the offence". – **See Refer to Woolmington vs. Director of Public Prosecutions (1935) *AC* 462**.This court is also mindful of its duty to evaluate all the evidence on record, both for the Prosecution and for the Defence, to be able to determine as to whether the offences for which the Accused persons were indicted have been proved to the required standard.

The instant case is Criminal **fraud, and conspiracy to defraud that was done by the National Housing Corporation, The National Social Security Fund directors Leonard Mpuuma and others, The Mitchell Cotts Group Subsidiary directors Yusuf Kagumire and others and the National Housing and Construction Corporation directors, Martin Kasekende and others.** The Black Law Dictionary describes fraud as: **"All the various means that human naivety can think of, and which an individual can use to obtain an advantage over an individual by manipulating or suppressing the facts. Both surprises, tricks, riddles, or dissembling, and all unfairness are part of it. Corporate criminal liability** is regarded as a crime committed by individuals or associations of persons who perform certain actions or omissions which are prohibited by law or in guilty minds, for the sake of the organization or of any entity from an association of persons for the purpose of achieving their common purpose of obtaining business during their work. **In criminal law, corporate responsibility defines the extent to which the actions and omissions of the natural persons it hires can be liable to a corporation as a legal entity**. It is often considered to be an aspect of **criminal vicarious liability, as distinct from the case in which the wording of a statutory crime expressly imposes liability on the company as the principal or joint principal with a human agent.** The accused is responsible for the crime of another person in vicarious liability. The theory of Respondent Superior is based on that doctrine, which implies that the master responds or answers. This doctrine is applicable to criminal offenses as well as to the **responsibility of companies and fines for property seizure.** It has also been concluded that the company is vicariously responsible for actions performed by its employee as it conducts in the course of its job, with **Ranger vs. the major western railway company [1859]4 De G & J 74.** The act and intention of the employee must be credited to the company for vicarious liability and should be done in the course of the job. A number of legal doctrines have to be considered so that we can bring the people and the companies involved in the Criminal Conspiracy to book.

1) **The Doctrine of Identification.** It needs organizations to take responsibility instead of the individuals enforcing those policies for the people with decision-making authority. The doctrine focuses on the reality that the company's purpose and behavior is the product of the company's employees. Detection of the culprit is the fundamental premise of this theory. It is a basic common law principle **that the mind of a company where guilty intent or responsibility is being considered cannot meaningfully be separated**

from the minds of the directors where the will of the company is to be discerned. In the case of **HL Bolton Co v. TJ Graham and Sons [1956] 3 All ER 624, Lord Denning held at page 630**: "A company may in many ways be likened to a human body. They have a brain and a nerve center which controls what they do. They also have hands which hold the tools and act in accordance with directions from the center. Some of the people in the company are mere servants and agents who are nothing more than hands to do the work and cannot be said to represent the mind or will. **Others are directors and managers who represent the directing mind and will of the company, and control what they do. The state of mind of these managers is the state of mind of the company and is treated by the law as such.... That is made clear in Lord Haldane's speech in Lennard's Carrying Co Ltd v Asiatic Petroleum Co Ltd ([1915] AC 705 at pp 713, 714)**. So also in the criminal law, in cases where the law requires a guilty mind as a condition of a criminal offence, the guilty mind of the directors or the managers will render the company themselves guilty." **In the instant case, based on the above wisdom, Martin Kasekende and others at the National Housing corporation who sold a forged freehold title to the National Social Security Fund for United States Dollars Eight Million (USD 8,000,000) for the Land at Lubowa, Leonard Mpuuma and other directors at the National Social Security Fund and Yusuf Kagumire of the Mitchell Cotts Limited subsidiaries that were involved in the deal will be held criminally liable.**

2) **The Doctrine of Collective Blindness** .Under the Collective Blindness doctrine, courts held that firms are liable even though no one was guilty and deemed the cumulative amount of information of each employee, so that a company may be held liable.
3) **The Doctrine of Willfulness Blindness**. According to that doctrine, the doctrine of intentional blindness is valid when any unlawful or criminal act is performed and the corporate agent takes no steps or measures to deter certain activities. **Criminal liability, in its traditional sense, encompasses liability of a person or a group of persons for commission of criminal acts, and is punishable with fine, imprisonment, and even capital punishment**. However, when a corporation or a company, a separate legal entity commits a criminal act, it becomes infinitely intricate as well as arduous to punish this fictional entity with punishments such as imprisonment. **The separate legal entity status of a corporation is often used as a disguise for commission of criminal acts**. To clarify the nuances of punishing a corporation for the criminal acts committed by it has been a task daunting the courts for years. **One of the most important reasons for having the concept of criminal liability in a society is to accommodate the members comprising the society towards leading a peaceful life without fear to their lives, limbs and property. Towards this pursuit, those members of the society who act in a contradiction to the accepted principles and norms of the society and are rather threat to other members are punished in proportion to their acts**. Traditionally, such punishment has been inflicted upon natural persons, majorly owing to the consideration that they have both mind and body to be able to commit such crimes, and for getting punished for the same.**[Abhishek Bhushan Singh, A Critical Study on the Corporate Criminal Liability in India", 4 International Journal of Law, Management and Humanities, 2399-[ccxxiv] (2021]**. Corporate crime is considered similar to a white-collar crime, which broadly comprises of occupational and organizational crimes. Occupational crime is committed by a singular person in the course of his occupation. The traditional understanding of white-collar crimes is restricted to occupational crimes. However, on a broader outlook, the organizational crimes are also a subset of white-collar crimes, comprising of those illegal acts which are committed collectively in an aggregate and organized manner.**[Marshall Clinard and Peter Yeager, Corporate Crimes 16 (2011).]** The doctrine of vicarious liability is based on two legal maxims, **"qui facit per alium facit per se",** which means that he who acts through another shall be deemed to have acted on his own; and "respondent superior", meaning that the master is responsible for the wrongdoings of those working under him, during the course of their employment.**[**

Unnati Khanna, Corporate Criminal Liability: An Analysis of Vicarious Imposition of Corporate Sanctions in India, 4 International Journal of Law, Management and Humanities, 1653 (2021).] The employee, besides acting during the course of his employment, should also be found to having his intent ascribed to that of his employer or the company. Thereafter, the company or the employer (master) would be responsible for the acts committed by such employee.**[Ranger v. The Great Western Railway Company, [1859] 4 De G & J 74] The master is vicariously liable for the acts of his servants and its with this wisdom the National Housing and Construction Corporation , The National Social Security Fund and the Mitchell Cotts Public Limited Company become liable for criminal fraud.** Even though the doctrine of vicarious liability is largely applicable on civil liability cases, however, since a corporation being a separate legal entity, should attract the application of vicarious liability, more so in instances of corporate criminal liability.**In Standard Chartered Bank v. Directorate of Enforcement, (2006) 4 SCC 278** the court ruled that the required sentences and a fine for this offence applied to companies. This decision also made it clear that if the accused party was a company, the court may impose simply the fine, even though the offence included both a fine and a potential imprisonment sentence. Since the court could not, in its discretion, choose to impose merely the fine and not the necessary imprisonment, this represented a convergence from the established line of precedents where courts declined to condemn companies for criminal acts. The Supreme Court did not initially attach mens rea to an Indian company until 2006, **in Iridium India Telecom Ltd. v. Motorola Inc., (2005) 2 SCC 145**.. On the basis of allegedly misleading promises made by the firm in its prospectus in connection with the issuance of securities to the public, the company in Iridium was charged with the crimes of defrauding and criminal conspiracy. **The Supreme Court has determined that a company has the same rights and may be tried and convicted for crimes under both common law and statute, including those that require mens rea. The Iridium judgement holds that a corporation may be held criminally accountable if the corporation's "alter ego" (the people in charge of the company's activities) commits a crime in connection with the company's activity.** The Court did say that the person or group of people must have enough influence over the business that the corporation may be seen as "thinking and acting through" them**[Rohit Dhingra & Shruti Kakkad, Corporate Criminal Liability: An Emerging Issue, 4 International Journal of Law, Management and Humanities 2 (2021)]**. However, the difficulty lies elsewhere when considering whether or not a business may be imprisoned for criminal activity. Since a corporation does not exist in the actual world, it is patently obvious that it can't be imprisoned. A corporation may not be able to be put in jail itself, **but its directors, owners, and workers are all real persons and hence are subject to criminal prosecution**. Although corporations may commit serious violations of several Acts in their individual capacities, no current statutes allow for their imprisonment. Putting someone behind bars is meant to serve as a deterrent so they won't commit crimes again. Another landmark decision that explored the difficulty of determining whether a company had the essential mens rea was **Iridium India Telecom Ltd. v. Motorola Inc., (2005) 2 SCC 145**. The Supreme Court accepted as true the proposition advanced in the Standard Chartered Bank case, **which held that corporations are capable of committing crimes that require the existence of mens rea**. In the instant case, its with this wisdom that this court needs to hold the **National Housing and Construction Corporation, The National Social Security Fund and the Mitchell Cotts Group that is directed by Yusuf Kagumire as stated in the case of Peter Mulira vs Mitchell Cotts Limited (2002) (Supra) liable for fraud** and **conspiracy to defraud**.. Furthermore, a person with influence over the company's operations may be able to criminally prosecute the firm itself for wrongdoings committed within the course of business. When one individual or group has this much influence over a firm, it may be argued that the business operates as if "through the mind of that individual or group." **In the instant case it with this wisdom that we bring people like Martin Kasekende, Yusuf Kagumire, Sarah Basangwa Kulatta and Leonard Mpuuma among others**

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liable for fraud that falls with the investigative ambit of the Anti-Corruption Unit that sits at Parliament.

Mens Rea

The judges also struggled with the issue of how to try a corporation for crimes when mens rea was a necessary element. If criminal intent requires a state of mind, how can that state of mind exist in a legal person? It became common knowledge that the firm could not be held accountable for crimes that required a culpable state of mind (mens rea) since it was only ever prosecuted in such circumstances where mens rea was not necessary. Because it is difficult for a corporation to develop the needed mens rea, the key part of the crime, the Bombay High Court invalidated a proceeding against Motorola Inc. for alleged cheating in the case of **Motorola Inc. A Company vs. Union of India, 2004 CriLJ 1576**. Therefore, the firm was immune to prosecution under Section 420 of the IPC, but the defence that it lacked mens rea was ultimately rejected. In the case of **H. L. Bolton and Co. ltd v. T.J Graham and Sons, 3 ALL ER 604, 1956, 632.**, Lord Denning's opinion was adopted, in which he said:

> "A firm may in many respects be comparable to a human body. Their actions are directed by a nervous system and brain. They have hands, too, which use the tools and carry out the central's orders.

There are some employees who are only agents and slaves, with no real say in the company's direction or goals. Directors and managers, on the other hand, stand in for the guiding thought and will of the firm and exercise command over its operations. According to the legislation, the mental condition of these executives is the same as that of the business. Thus, in situations where personal fault is a prerequisite for tort liability, the company's fault will be considered to be that of its management. **In the instant case it with this wisdom that we bring people like Martin Kasekende, Yusuf Kagumire, Sarah Basangwa Kulatta and Leonard Mpuuma among others liable for fraud that falls with the investigative ambit of the Anti-Corruption Unit that sits at Parliament.** The Supreme Court ruled in the case of The **Assistant Commissioner, Assessment-II, Bangalore & Ors. vs. M/s. Velliappa Textiles Ltd. & Anr[30]** that,

"though initially it was supposed that Corporation could not be held liable criminally for offences where mens rea was requisite, the current judicial thinking appears to be that the mens rea of the person in-charge of the affairs of the Corporation, the alter ego, is liable to be extrapolated to the Corporation, enabling even an artificial person to be prosecuted for such an offence." With the aid of the theory of alter ego, courts have found it easier to find corporations criminally accountable for crimes where mens rea was a necessary element. **Its with this wisdom that the Anti-corruption Unit is at Liberty to investigate whether the National Housing and Construction Corporation, The National Social Security Fund and The Mitchell Cotts Group subsidiary that was involved in this fraud that we are looking at in which USD 8,000,000/- was lost by the NSSF as a result of the intuit and fraudulent ingenuity of Martin Kasekende and Yusuf Kagumire among others that we are going to discover subsequently.**

The principle of respondent superior is a cornerstone of the case for corporate criminal liability in the United States and the same has been used in Uganda in the case of **Stanbic Bank Uganda Ltd v Ducat Lubricants (U) Ltd & 3 Ors (MISC. APPLIC. No. 845 Of 2013) [2013] UGCOMMC 199 (25 November 2013);**. Corporations are held accountable for the actions of their employees when acting in the course of and for the benefit of their employment. It is not necessary under federal law for the employee to have any particular degree of corporate responsibility, such as being able to speak for the business, being a member of a control group, or being a directing mind, but certain states have different requirements.

Even though it may be said that corporations "don't have a soul to condemn," in the United States, they may nonetheless be held liable for the actions of their employees. Similar considerations apply to limited liability companies, partnerships, and closely held businesses with a small number of controlling shareholders. Even if an employee breaches corporate policy, the firm may still be held legally accountable under the doctrine of **"Corporate Criminal Liability." If an employee commits a crime while doing work duties, the company will not be protected even if they are given specific counter-instructions. Even if a firm has a strict compliance policy in place, it may still be held liable for the illegal acts of its employees under United States law.** United States government prosecutors believe it would be easy to bring criminal charges against the company in light of the preceding. Because of this, US firms are far more inclined to settle with prosecutors instead of going to trial. **The "collective knowledge" approach in American law facilitates respondent superior liability, making it easier to prosecute corporations. Under this theory, the government doesn't even need to show that a suspect is equipped with the knowledge necessary to commit the crime.** It also is possible that the authorities may interview other business employees in order to piece together what the corporation knew about the crime. In the United States of America, this might lead to greater corporate criminal accountability for acts for which an individual employee could face no criminal liability. The United States Supreme Court has decided in a clear and unambiguous fashion that "Companies can commit crimes with intention, as established in **New York Central & Hudson River Rail Road Co. v. United Nations, 53 LEd; 613, 215 USA 481, 1908.**According to Lord Denning's analysis of the case **H. L. Bolton and Co. ltd v. T.J Graham and Sons, 3 ALL ER 604, 1956, 632,** a business is analogous to the human body in many ways. Their actions are directed by a brain and nervous system. Their hands can grasp and use equipment in accordance with instructions from a control center. Several members of the company's staff are just laborers and agents who are not responsible for the intellectual or will behind the job at hand. Directors and managers are the representatives of the company's governing thought and will, and their actions are subject to their oversight. According to the legislation, the mentality of these executives is the same as that of the business. In the case of **Lennard's Carrying Firm Ltd v. Asiatic Petroleum Co. Ltd., 1915 AC706, 113 LJ 195,** Lord Haldane ruled that if the law requires a criminal mind and criminal purpose on the part of directors or management, then the company is also liable under criminal jurisprudence**[Rukmani Sachdeva, An analytical study on Corporate Criminal Liability: Comparative study of India and USA, 5 International Journal Of Law Management & Humanities 1 (2022)]. So with the same wisdom in our ambit, the anti-corruption unit of Uganda has the duty to do investigations and the DPP is now obliged to sanction that files for this matter that will end up implicating the National Housing Corporation, The National Social Security Fund, The Mitchell Cotts Group subsidiary, Martin Kasekende and other directors, Leonard Mpuuma and other directors,Yosuf Kagumire and other directors and Sarah Basangwa Kulatta and others** for the United States Dollars Eight Million Dollar fraud they did over the Lubowa land in 2003 when they forged a title over the private mailo land for Yusuf Suuna Kiweewa and defrauded Ugandan NSSF contributors their money.

As the case of **Sunil Bharti Mittal v. Central Bureau of Investigation, (2015) 4 SCC 609** shows, the Supreme Court of India has already decided this issue, holding that a person who commits an offence on behalf of a corporation will be prosecuted alongside the firm. In light of the above, the issue arises as to whether a person may be held criminally liable if they are only designated by the Company as an officer-in-default. To be considered the company's "alter-ego," as the Supreme Court put it, the degree of similarity between the company's conduct and the responsible people' **"directing mind and will"** must be high enough for courts to infer that they are one and the same. This implies that if an officer is in default for offences that do not need proof of purpose, he or she is penalized purely on the basis of his or her position, although this is obviously not the case in situations where proof of intent is required. It is unfair

to infer guilt in those who hold powerful positions like chairman or managing director. The "legal condition" of being a "person in law" (under the company legislation) liable to the company for the conduct of the company's business must be met in addition to the "factual requirement" of being in charge of the operation of the firm. When fraud occurs, **this intentional deception is not acting in good faith and it is not in the best interests of the corporation. As a result, directors and officers will be liable for fraud.** Such individuals can be personally liable for the torts they commit, even when the elements for piercing the corporate veil are not established. The Appellate Division, First Department, has rendered a new decision on the subject of personal liability for fraud, nicely analyzing the legal principles:

Gateway Intl., 360, LLC v Richmond Capital Group, LLC, 2022 NY Slip Op 00008 (1st Dep't Decided Jan. 4, 2022), holding in relevant part:

The fact that the alter ego allegations are insufficient does not mean that the causes of action for fraudulent inducement, fraud and conversion should be dismissed. "[A] corporate officer who participates in the commission of a tort may be held individually liable, regardless of whether the corporate veil is pierced" **(Fletcher v Dakota, Inc., 99 AD3d 43, 49 [1st Dept 2012] ; see also Pludeman v Northern Leasing Sys., Inc., 10 NY3d 486, 491 [2008])**. Plaintiffs have alleged that Braun is individually liable because he engaged in a course of fraudulent and tortious conduct directed at Gateway and intentionally caused RCG, GTR, MZeed, and Orange to defraud and breach their contractual obligations to Gateway. Drawing all inferences in plaintiffs' favor **(see generally Chanko v American Broadcasting Cos. Inc., 27 NY3d 46, 52 [2016]),** plaintiffs have stated a claim for fraudulent inducement by alleging that Braun, on behalf of the defendant entities, misrepresented that he was "Jack Snyder" and not convicted felon Braun, that plaintiffs justifiably relied upon the misrepresentation to their detriment by doing business with defendants, because if plaintiffs had known Braun's true identity, they would not have borrowed money from defendants, and that plaintiffs were directly and proximately injured by this knowingly false representation (**see e.g. GoSmile, Inc. v Levine, 81 AD3d 77, 81 [1st Dept 2010], lv dismissed 17 NY3d 782 [2011]; P & HR Solutions, 195 AD3d at 474).**

"A director or officer of a corporation does not incur personal liability for its torts merely by reason of his [or her] official character" **(Greenway Plaza Off. Park-1 v Metro Constr. Servs., 4 AD3d 328, 329 [internal quotation marks omitted])**, and thus, cannot be liable for torts "attributable to the corporation if he [or she] did not participate in and was not connected with the acts in any manner" **(PDK Labs, Inc. v G.M.G. Trans. W. Corp., 101 AD3d 970, 973**). However, " [a] corporate officer who participates in the commission of a tort may be held individually liable, regardless of whether the officer acted on behalf of the corporation in the course of official duties and regardless of whether the corporate veil is pierced'" **(Rajeev Sindhwani, M.D., PLLC v Coe Bus. Serv., Inc., 52 AD3d 674, 677, quoting American Express Travel Related Servs. Co. v North Atl. Resources, 261 AD2d 310, 311). Piercing the corporate veil should not be confused with personal liability for torts.** While the traditional veil surrounding legal entities such as corporations, limited liability companies and limited partnerships can protect agents of those entities from contractual liability of the entity, **the individuals are liable for any torts in which they participate, such as fraud.**

With the above wisdom in our ambit, its very clear that Martin Kasekende among others we will see will be held liable for fraud under the criminal jurisdiction and the above wisdom gives DPP the legal direction that will be taken to bring all those involved in this case for trial under criminal jurisdiction of the Ugandan Courts like they have previously done in Obey & 2 Ors v Uganda (Misc Application No's. 045, 046, and 047/2015) [2016] UGHCCRD 43 (30 August 2015); and Uganda v Lwamafa

Jimmy & 3 Ors (Criminal Session 3 of 2016) [2018] UGHCACD 11 (21 December 2018) among others.

4) **The judgement further related this idea to the identity concept**, which was adopted into the Uganda legal system from common law and is probably likely established law on the matter. In the end, there is no impediment to imposing a criminal consequence on a corporation, because it may have both an independent mind and an atmosphere in which criminality is nourished. As a legal person, the corporation is responsible for other people's conduct. The Supreme Court ruled that in all jurisdictions around the globe regulated by the rule of law corporations and company corporations can not claim further protection from criminal prosecutions because they are unable to keep men rea in other cases of **Iridium India Telecom Ltd vs. Motorola Inc.[(2011) 1 SCC 74]** So its easy to hold the corporations that the people being investigated below did the fraud in together with the personal actors based on the prior mentioned wisdom.
5) **The Doctrine of Attribution.** The theory of attribution means that mens rea, i.e. the guilty conscience, is assigned to the mind and resolve of companies, in the case of a penalty or incarceration in the event of an act or omission that leads to breach of the criminal law. **In Uganda, this doctrine is used but in the United Kingdom, it was created.** Following the judgments in recent years on attribution to a company of its directors' knowledge in **Bilta (UK) Ltd (In Liquidation) v Nazir [2015] UKSC 23 and UBS AG (London Branch)** and **another v Kommunale Wasserwerke Leipzig [2017] EWCA Civ 1567,** the UK Supreme Court has once more returned to this issue in **Singularis Holdings Ltd (in Official Liquidation) (a Company Incorporated in The Cayman Islands) v Daiwa Capital Markets Europe Ltd [2019] UKSC 50**, in a case where a bank (Daiwa) was held liable for breaching its Quince care duty of care to its customer, a company named Singularis, by not preventing an individual who was both the customer's sole shareholder and chairman from making fraudulent transfers of the company's assets. Singularis was a company registered in the Cayman Islands which had been set up to manage the personal assets of a Saudi Arabian businessman, Mr Al Sanea. He was the sole shareholder, a director and the chairman, president and treasurer; he also had sole signing powers over the company's bank accounts. Singularis had six other directors but they did not exercise any influence over the management of the company. The bank argued that Mr Al Sanea was Singularis' controlling mind and will. **In June and July 2009, Mr Al Sanea instructed the bank to make payments totalling approximately $204.5m to third parties out of monies held in Singularis' account. The payments were held by the judge at first instance to be a misappropriation of Singularis' funds (a point which was not appealed) and left Singularis unable to meet the demands of its creditors. On 20 August 2009, Mr Al Sanea placed Singularis in voluntary liquidation**. On 18 September 2009 the Grand Court of the Cayman Islands made a compulsory winding up order and joint liquidators were appointed. The liquidators subsequently brought a claim in Singularis' name against the bank for damages amounting to the value of the misappropriations made by Mr Al Sanea from the company's bank account. The judge at first instance, Mrs Justice Rose, found that the bank's employees had acted honestly and therefore the bank was not liable for dishonestly assisting Mr Al Sanea. However, she found that the bank had been negligent, with Singularis being held 25% contributory negligent. As established in **Barclays Bank Plc v Quincecare Ltd [1992] 4 All E.R. 363**, an implied term of the contract between a bank and its customer is that the bank owes a duty of care not to execute the customer's order if it knows the order to be dishonestly given, or shuts its eyes to obvious dishonesty, or acts recklessly in failing to make inquiries. In this case, the judge found on the facts that any reasonable banker would have realised that there were many obvious, even glaring, signs that Mr Al Sanea was perpetrating a fraud on the company. The bank argued that Mr Al Sanea's knowledge that the payment instructions were fraudulent should be attributed to Singularis. It also raised defences to Singularis' Quincecare claim against the bank, arguing that it should fail for illegality, lack of causation or because of a countervailing claim for deceit in that the bank had acted on the basis of dishonest misrepresentations

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made by Mr Al Sanea. The Supreme Court (Lady Hale giving judgment) upheld the decision of the courts below that the bank was liable to Singularis. **The two 'illegalities' relied on by Daiwa were Mr Al Sanea's provision of false documents in relation to the payments and his breach of fiduciary duty towards Singularis.** Relying on the leading case on illegality of **Patel v Mirza [2016] UKSC 42, [2017] AC 467,** the Supreme Court upheld Mrs Justice Rose's ruling that fiduciary duties are intended to protect a company from becoming the victim of the wrongful exercise of power by its officers. Lady Hale said that purpose would not be enhanced by preventing the company's recovery of the money wrongfully removed from its account. As to the second illegality – the provision of false documents – the purpose of the prohibition on making false statements was said to be to protect both the bank from being deceived and the company from having its funds misappropriated. Although the purpose of protecting the bank would be enhanced by denying Singularis' claim, Lady Hale thought that purpose was achieved through the Quince care duty, which strikes a careful balance between the interests of the customer and those of the bank. Undermining that balance by denying the claim on the grounds of an illegality would not enhance the integrity of the law when the exceptional circumstances needed for the duty to arise and be breached are present. The power to make a deduction for contributory negligence enabled the court to make an appropriate adjustment on liability. As an alternative defence, the bank argued that if the fraud was attributed to Singularis, its loss was caused by its own fault and not that of the bank. The Supreme Court held, however, that the purpose of the Quincecare duty is to protect the bank's customers from harm caused by people for whom the customer is responsible. The fraudulent instruction to Daiwa gave rise to the duty of care which Daiwa breached, thus causing the loss. Similarly, the Supreme Court also dismissed the bank's countervailing claim in deceit, agreeing with Mrs Justice Rose that it was the bank's breach of duty and not Mr Al Sanea's misrepresentations that was the cause of the bank's exposure to the claim for Singularis' loss. The bank could not rely on the very fraud which gave rise to its duty to escape liability for that duty.On the question of attribution, the Supreme Court held that Mr Al Sanea's fraud should not be attributed to the company for the purposes of the Quincecare claim. The basic principle was that a properly incorporated company has an identity and legal personality separate from that of its shareholders and directors. The company has to act through the medium of real human beings but the acts of those persons are only treated as the acts and intentions of the company in circumstances specified by its constitution, or the ordinary rules of agency and vicarious liability, or other particular rules of law. Lady Hale said that the Supreme Court had held unanimously in **Bilta v Nazir** that where a company had been the victim of wrongdoing by its directors, the wrongdoing of the directors cannot be attributed to the company as a defence to a claim brought against the directors – and their co-conspirators – by the company's liquidator for the loss suffered by the company as a result of the wrongdoing. The key to any question of whether to attribute the knowledge of a fraudulent director to the company is always to be found in consideration of the context and purpose for which the attribution is relevant. The context here was the bank's breach of its duty of care to protect Singularis against this sort of misappropriation of its funds, which by definition would be done by a trusted agent of the company who was authorised to withdraw money from the account. **The Supreme Court said that to attribute the fraud of a trusted agent of the company to the company would denude the duty of any value in cases where it is most needed and would be a retrograde step. So with the above wisdom in our Ambit, Martin Kasekende and Leonard Mpuuma who are corporate directors will be held liable for the NSSF fraud under doctrine of attribution.**

6) **The Doctrine of Alter Ego**: Under this doctrine of Alter Ego, it is described as someone's personality which is not seen by others. The owners and persons who manage the company are considered as the Alter Ego of the company. The directors and other persons who manage the affairs of the company can be held liable for the acts committed by or on the behalf of the company under this doctrine since the

corporation has no mind, body, or soul so the people are the directing mind and will. Alter ego was later developed in India as a solution to the issue. The alter ego theory is based on the idea that the law itself may take on a personality. The Corporation represents the person's second self. As a result, if an employee commits a crime while acting within the scope of his employment, the company may be held responsible. The mens rea of a person is the same as that of the company. **The phrase "Alter Ego" originated from Latin. Its literal meaning is the "Other ." It can also be referred to more commonly as a person's clone or second self. The idea that a corporation is a distinct legal personality from its owners and directors is widely accepted. By virtue of this fundamental common law principle, shareholders and directors are shielded from civil and criminal liability for the business's debts. However, the notion of alter ego allows for a legal caveat to this presumption. <u>The notion known as "alter ego" forbids the company's members and directors from seeking protection under the doctrine of a separate legal entity.</u> The doctrine is also important when it comes to the principle of vicarious liability.**The Doctrine of Alter ego was laid down in the case of **Lennards Carying Co. Ltd. v. Asiatic Petroleum Co. Ltd. [1915] AC 705**. The Asiatic Petroleum Company was receiving a shipment of benzine from a ship operated by Lennard's Carrying Co. The ship's cargo was misplaced. This occurred due to a fire that the ship's poor shape and inability to navigate over extended distances at sea triggered. The complainant sued the business, claiming negligence caused damages. They claimed that the director of the company, knowing about the ship's subpar state, did nothing to address it. The director asserted that the shipowner had no responsibility when a loss occurred with no one's genuine fault. A company does not have its own mind or body, according to the House. It executes its **will through a person who, while in some contexts referred to as an agent, is actually the company's steering mind and will, its very psyche and the core of the company's character. The House of Lords ruled that both the directors and the corporation will be held liable for the actions of a company. Since the company can only operate as a person with the help of its hands and acts, and since the directors are in charge of overseeing the management of the company's operations, they are seen as the corporation's minds and body.**The idea is further illustrated by **Lord Denning's analogy of the corporation to a human body that functions through many organs in the case of Bolton (H.L.)(Engg.) Co. Ltd. v. T.J. Graham & Sons Ltd, (1956) 3 All ER 624 (CA)**.. Therefore, the manager's blame will be the personal fault of the corporation in situations where the law stipulates personal fault as a requirement of culpability in tort. Since a company can be found guilty of both common law and statute offences, including those requiring mens rea, it is essentially in the same position as an individual. The Supreme Court ruled in the case of **The Assistant Commissioner, Assessment-II, Bangalore & Ors. vs. M/s. Velliappa Textiles Ltd. & Anr., (2003) 11 SCC 405**. that, **"though initially it was supposed that Corporation could not be held liable criminally for offences where mens rea was requisite, the current judicial thinking appears to be that the mens rea of the person in-charge of the affairs of the Corporation, the alter ego, is liable to be extrapolated to the Corporation, enabling even an artificial person to be prosecuted for such an offence."** According to the general modern rule in India, a corporation may be subject to prosecution or other criminal proceedings, even if the unlawful act is carried out by one of its representatives, with the exception of crimes that are thought to be beyond the power of a company to commit because they involve personal malice. As a result, the firm can also be considered the "alter ego" of the person or group in charge of the company's affairs if they act criminally when committing an offence. In **Standard Chartered Bank v. Directorate of Enforcement, AIR 2005 SC 2622.**The Supreme Court had already upheld the alter ego hypothesis in **Assistant Commissioner, Assessment-II, Bangalore v. Messers Velliappa Textiles Ltd.** However, it had ruled by a majority that a firm could not be sued for offences calling for the levying of an obligatory jail sentence alone or an obligatory prison sentence combined with a fine. Similar to this, the court rejected a case brought against **Zee Telefilms**

Ltd. under Section 500 of the IPC in Zee Telefilms Ltd. v. Sahara India Co. Corp. Ltd. According to the suit, Zee broadcast a show based on a lie and as a result, defamed Sahara India. According to the court, mens rea is one of the critical ingredients of criminal defamation, and a firm cannot possess the necessary mens rea.However, this view was overruled in the **Standard Chartered Bank v. Directorate of Enforcement Case, setting out a new chapter in the realm of corporate law. According to the court decision, no company is automatically shielded from prosecution for serious crimes simply because a conviction would result in a legally required term of imprisonment. Corporate entities like a company or firm engage in a number of activities that have an impact on the citizens' lives, liberties, and property.** Several corporations commit significant financial inconsistencies. In order to maintain a tranquil society and a robust economy, the corporate vehicle must be subject to criminal law given its current dominance of the industrial, business, and socioeconomic sectors. With the aid of the theory of alter ego, courts have found it easier to find corporations criminally accountable for crimes where mens rea was a necessary element**[Rohit Dhingra & Shruti Kakkad, Corporate Criminal Liability: An Emerging Issue, 4 International Journal of Law, Management and Humanities 2 (2021)]. So with the above wisdom in our ambit, the Director of Public Prosecution has the obligation to sanction both the companies and its directors who include but are not limited to Martin Kasekende,Yusuf Kagumire and Leonard Mpuuma to account for th USD 8,000,000/- fraud that they were part of in 2003 when they sold the National Social Security Fund the land at Lubowa which is private mailo vides the substantiations below.** For the first time an investigation will still be commissioned on Martin Kasekende to explain how the National Housing Corporation acquired the land at Lubowa over which they have always been selling houses.

With the above legal justifications explaining why the matter to do with Martin Kasekende and others fraud can be deal with under the Criminal Liability sanction, it's the obligation of the state to also prove how they can litigate the **CONSIPIRACY TO DEFRAUD. The Penal Code effects that relate to fraud and theft, read with the Companies Act, 2012 provides that if the Officers of the Company (Director, Additional Director or Assistant Director), has on the basis of material possession reason to believe (and the reason for such belief is recorded in writing)** that any person is guilty of any of the following offences, they may arrest such person and shall inform him of the grounds for such arrest:

1) Incorporation of company;
2) Criminal liability for mis-statements in prospectus;
3) Punishment for fraudulently inducing persons to invest money;
4) Punishment for personation for acquisition of securities; Certificate of shares; Transfer and transmission of securities; Reduction of share capital;
5) Removal, resignation of auditor and giving of special notice;
6) Power to call for information, inspect books and conduct inquiries;
7) Investigation into company's affairs in other cases;
8) Penalty for furnishing false statement, mutilation, destruction of documents;
9) Fraudulent application for removal of name;
10) Liability for fraudulent conduct of business

Fraud in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;

In the definition above,

Wrongful gain means the gain by unlawful means of property to which the person gaining is not legally entitled; and wrongful loss means the loss by unlawful means of property to which the person losing is legally entitled.

The Anti- Corruption Act of Uganda was amended in 2018 to bring it in line with the United Nations Convention against Corruption 2005, which was ratified by Uganda. The amendment provided to prevent corruption in Government departments and to prosecute and punish public servants involved in corrupt practices.

It also introduced implication of offering bribes by a Corporate

1) Where an offence has been committed by a commercial organisation and such an offence is proved in the court to have been committed with the consent or connivance of any director of the commercial organisation, such director shall also be held guilty of the offence and shall be liable to be proceeded against.
2) The director will be imprisoned for a term of years and shall also be liable to fine.

Personal Liability of The Director For Wrongful Trading: A director of the company can be held liable to contribute to assets of the corporate debtor if such director knew that the company has no prospect of avoiding commencement of insolvency process and he did not exercise any due diligence in minimizing potential loss to creditors.

Personal Liability of The Director for Fraudulent Trading: Any person who is a party to any business of the debtor carried on with the intent to defraud creditors or any other fraudulent purposes may be liable to contribute to the assets of the company as determined by the Company Law. **The Company Act 2012 and the Combined Code of Corporate Governance** require that, if a company is found to have contravened the provisions of the Act, **then, every person who is in charge of and responsible for the company's conduct shall be deemed to be guilty of the contravention, and shall be liable to punishment according to the provisions of the Act.**

Martin Kasekende, Yusuf Kagumire and Leonard Mpuuma among others in their respective corporates will be held liable for the fraud and Conspiracy to defraud below because they were the **"Persons in Charge"**.In **Girdhari Lal Gupta v. D.H. Mehta, (1971) 3 SCC 189** the meaning of person in charge was explained as per here under

"……6. What then does the expression "a person in- charge and responsible for the conduct of the affairs of a company" mean? It will be noticed that the word "company" includes a firm or other association, and the same test must apply to a director in-charge and a partner of a firm in- charge of a business. It seems to us that in the context a person "in-charge" must mean that the person should be in over-all control of the day to day business of the company or firm. This inference follows from the wording of Section 23- C(2). It mentions director, who may be a party to the policy being followed by a company and yet not be in-charge of the business of the company. Further it mentions manager, who usually is in charge of the business but not in over-all charge. Similarly the other officers may be in-charge of only some part of business……."

In **State v. S.P. Bhadani, Kanhaiya Singh, J., in construing a similar provision of the Employees Provident Fund Act (1952), Section 14-A** --held that the first sub-section would be confined only to officers in the immediate charge of the management of the company. Later he observed that "it is, therefore, manifest that all the officers of the company not in direct charge of the management of the business are immune from the liability for the offence, **unless they have contributed to its commission by consent, connivance or neglect".**

In **R.K. Khandelwal v. Stat,e D.S. Mathur, J., in construing, a provision similar to the one we are concerned with, observed:**

".…….There can be directors who merely lay down the policy and are not concerned with the day to day working of the company. Consequently, the mere fact that the accused person is a partner or director of the Company, shall not make him criminally liable for the offence committed by the Company unless the other ingredients are established which make him criminally liable……."

Therefore, this Court has distinguished the case of persons who are in charge of and responsible for the conduct of the business of the company at the time of the offence and the persons who are merely holding the post in a company and are not in charge of and responsible for the conduct of the business of the company. The description should be clear and there should be some unambiguous allegations as to how the Directors concerned were alleged to be in charge of and were responsible for the conduct and affairs of the company. A company, though a legal entity, can act only through its Board of Directors. The settled position is that a Managing Director is prima facie in charge of and responsible for the company's business and affairs and can be prosecuted for offences by the company. But insofar as other Directors are concerned, they can be prosecuted only if they were in charge of and responsible for the conduct of the business of the company. Vicarious liability on the part of a person must be pleaded and proved and not inferred. **If the accused is a Managing Director or a Joint Managing Director then it is not necessary to make specific averment in the complaint and by virtue of their position they are liable to be proceeded with.** The person sought to be made liable should be in charge of and responsible for the conduct of the business of the company at the relevant time. This has to be averred as a fact as there is no deemed liability of a Director in such cases.

Principle of "alter ego", as applied. The moot question is whether the aforesaid proposition, to proceed against the appellants is backed by law? In order to find the answer, let us scan through the case law that was cited during the arguments. **First case which needs to be discussed is Iridium India.(Supra)** Before we discuss the facts of this case, it would be relevant to point out that the question as to whether a company could be prosecuted for an offence which requires mens rea had been earlier referred to in a **Constitution Bench of five Judges in Standard Chartered Bank v. Directorate of Enforcement.** The Constitution Bench had held that a company can be prosecuted and convicted for an offence which requires a minimum sentence of imprisonment. **In para 8 of the judgment, the Constitution Bench clarified that the Bench is not expressing any opinion on the question whether a corporation could be attributed with requisite mens rea to prove the guilt. Para 8 reads as under: (SCC p. 542) "8. ... It is only in a case requiring mens rea, a question arises whether a corporation could be attributed with requisite mens rea to prove the guilt. But as we are not concerned with this CRL.P.NO.5084 OF 2020 c/w CRL.P.NO.5092 OF 2020 CRL.P.NO.3426 OF 2020 32 CRL.P.NO.7780 OF 2020 question in these proceedings, we do not express any opinion on that issue."**

In Iridium India, the aforesaid question fell directly for consideration, namely, whether a company could be prosecuted for an offence which requires mens rea and discussed this aspect at length, taking note of the law that prevails in America and England on this issue. **The courts in England have emphatically rejected the notion that a body corporate could not commit a criminal offence which was an outcome of an act of will needing a particular state of mind.** The aforesaid notion has been rejected by adopting the doctrine of attribution and imputation. In other words, the criminal intent of the 'alter ego' of the company/body corporate i.e. the person or group of persons that guide the business of the company would be imputed to the corporation.

It may be appropriate at this stage to notice the observations made by MacNaghten, J. in Director of Public Prosecutions v. Kent and Sussex Contractors Ltd. (KB p. 156) A body corporate is a "person" to whom, amongst

the various attributes it may have, there should be imputed the attribute of a mind capable of knowing and forming an intention--indeed it is much too late in the day to suggest the contrary. It can only know or form an intention through its human agents, but circumstances may be such that the knowledge of the agent must be imputed to the body corporate. Counsel for the respondents says that, although a body corporate may be capable of having an intention, it is not capable of having a criminal intention. In this particular case the intention was the intention to deceive. If, as in this case, the responsible agent of a body corporate **(who in the case of National Housing Corporation was Martin Kasekende and other directors who forwarded the forged freehold title for Lubowa Land)** puts forward a document knowing it to be false and intending that it should deceive, I apprehend, according to the authorities that **Viscount Caldecote, L.C.J., has cited, his knowledge and intention must be imputed to the body corporate.**

The principle has been reiterated by **Lord Denning in Bolton (H.L.)(Engg.) Co. Ltd. v. T.J. Graham & Sons Ltd. (QB p. 172)** *A* company may in many ways be likened to a human body. They have a brain and a nerve centre which controls what they do. They also have hands which hold the tools and act in accordance with directions from the centre. Some of the people in the company are mere servants and agents who are nothing more than hands to do the work and cannot be said to represent the mind or will. Others are Directors and managers who represent the directing mind and will of the company, and control what they do. The state of mind of these managers is the state of mind of the company and is treated by the law as such. So you will find that in cases where the law requires personal fault as a condition of liability in tort, the fault of the manager will be the personal fault of the company. That is made clear in **Lord Haldane's speech in Lennard's Carrying Co. Ltd. v. Asiatic Petroleum Co. Ltd. (AC at pp. 713 & 714). So also in the criminal law, in cases where the law requires a guilty mind as a condition of a criminal offence, the guilty mind of the Directors or the managers will render the company themselves guilty.**

The aforesaid principle has been firmly established in England since the decision of **the House of Lords in Tesco Supermarkets Ltd. v. Nattrass.** In stating the principle of corporate liability for criminal offences, **Lord Reid** made the following statement of law: (*AC* p. 170 E-G) '……**I must start by considering the nature of the personality which by a fiction the law attributes to a corporation. A living person has a mind which can have knowledge or intention or be negligent and he has hands to carry out his intentions. A corporation has none of these: it must act through living persons, though not always one or the same person. Then the person who acts is not speaking or acting for the company. He is acting as the company and his mind which directs his acts is the mind of the company. There is no question of the company being vicariously liable. He is not acting as a servant, representative, agent or delegate. He is an embodiment of the company or, one could say, he hears and speaks through the persona of the company, within his appropriate sphere, and his mind is the mind of the company. If it is a guilty mind then that guilt is the guilt of the company. It must be a question of law whether, once the facts have been ascertained, a person in doing particular things is to be regarded as the company or merely as the company's servant or agent. In that case any liability of the company can only be a statutory or vicarious liability**……..'

From the above it becomes evident that a corporation is virtually in the same position as any individual and may be convicted of common law as well as statutory offences including those requiring mens rea. The criminal liability of a corporation would arise when an offence is committed in relation to the business of the corporation by a person or body of persons in control of its affairs. In such circumstances, it would be necessary to ascertain that the degree and control of the person or body of persons is so intense that a corporation may be said to think and act through the person or the body of persons. The position of law on this issue in Canada is almost the same. Mens rea is attributed to corporations on the principle of 'alter ego' of the company.

So far as India is concerned, the legal position has been clearly stated by the Constitution Bench judgment of this Court in **Standard Chartered Bank v. Directorate of Enforcement**. On a detailed consideration of the entire body of case laws in this country as well as other jurisdictions, it has been observed as follows: **(SCC p. 541, para 6) '6**. There is no dispute that a company and its directors liable to be prosecuted and punished for criminal offences. Although there are earlier authorities to the effect that corporations cannot commit a crime, the generally accepted modern rule is that except for such crimes as a corporation is held incapable of committing by reason of the fact that they involve personal malicious intent, a corporation may be subject to indictment or other criminal process, although the criminal act is committed through its agents.'" It is abundantly clear from the above that the principle which is laid down is to the effect that the criminal intent of the "alter ego" of the company, that is the personal group of persons that guide the business of the company, would be imputed to the company/corporation. The legal proposition that is laid down in the aforesaid judgment in Iridium India case is that if the person or group of persons who control the affairs of the company commit an offence with a criminal intent, their criminality can be imputed to the company as well as they are "alter ego" of the company.

Circumstances when Director/person in charge of the affairs of the company can also be prosecuted, when the company is an accused person. No doubt, a corporate entity is an artificial person which acts through its officers, Directors, Managing Director, Chairman, etc. **If such a company commits an offence involving mens rea, it would normally be the intent and action of that individual who would act on behalf of the company. It would be more so, when the criminal act is that of conspiracy**. Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent.

In **Aneeta Hada [Aneeta Hada v. Godfather Travels & Tours (P) Ltd.**, the Court noted that if a group of persons that guide the business of the company have the criminal intent, that would be imputed to the body corporate and it is in this backdrop. **Here also, the principle of "alter ego", was applied only in one direction, namely, where a group of persons that guide the business had criminal intent, that is to be imputed to the body corporate and not the vice versa**.

In **Pepsi Foods Ltd. v. Judicial Magistrate this Court held as under: (SCC p. 760, para 28) '28**. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. **The order of the Judge summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused**. It is not that the Judge is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Judge has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.'

If the accused is the Managing Director or a Joint Managing Director, it is not necessary to make an averment in the complaint that he is in charge of, and is responsible to the company, for the conduct of the business of the company. It is sufficient if an averment is made that the accused was the Managing Director or Joint Managing Director at the relevant time. This is because the prefix "Managing" to the word "Director" makes it clear that they were in charge of and are responsible to the company, for the conduct of the business of the company. In the instant case Martin Kasekende, Yusuf Kagumire and Sarah Basangwa Kulatta were active

directors in the land title forgery at Lubowa. There is no way the same would have been successfully done without there direct involvement and therefore the crime of fraud is directly imputed to them.

Executive and non-executive Directors An Executive Director can be either a Whole- time Director of the company (i.e, one who devotes his whole time of working hours to the company and has a significant personal interest in the company as his source of income), or a Managing Director (i.e, one who is employed by the company as such and has substantial powers of management over the affairs of the company subject to the superintendence, direction and control of the Board).

The general conspiracy law, creates an offense "if two or more persons conspire either to commit any offense against the people, or to defraud the State, or any agency thereof in any manner or for any purpose.

Although this language is very broad, cases rely heavily on the definition of "defraud" provided by the Supreme Court in two early cases, **Hass v. Henkel, 216 U.S. 462 (1910)**, and **Hammerschmidt v. United States, 265 U.S. 182 (1924)**. In Hass the Court stated:

> **The statute is broad enough in its terms to include any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of government . . . (A)ny conspiracy which is calculated to obstruct or impair its efficiency and destroy the value of its operation and reports as fair, impartial and reasonably accurate, would be to defraud the United States by depriving it of its lawful right and duty of promulgating or diffusing the information so officially acquired in the way and at the time required by law or departmental regulation.**

Hass, 216 U.S. at 479-480.

In Hammerschmidt, Chief Justice Taft, defined "defraud" as follows:

> **To conspire to defraud the United States means primarily to cheat the Government out of property or money, but it also means to interfere with or obstruct one of its lawful governmental functions by deceit, craft or trickery, or at least by means that are dishonest. It is not necessary that the Government shall be subjected to property or pecuniary loss by the fraud, but only that its legitimate official action and purpose shall be defeated by misrepresentation, chicane or the overreaching of those charged with carrying out the governmental intention.**

Hammerschmidt, 265 U.S. at 188.

The general purpose of this part of the statute is to protect governmental functions from frustration and distortion through deceptive practices. Conspiracy to defraud is legally defined as "any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of Government." **Tanner v. United States, 483 U.S. 107, 128 (1987); see Dennis v. United States, 384 U.S. 855 (1966)**. The "defraud part of section 371 criminalizes any willful impairment of a legitimate function of government, whether or not the improper acts or objective are criminal under another statute." **United States v. Tuohey, 867 F.2d 534, 537 (9th Cir. 1989)**.

The word "defraud" in legal jurisprudence not only reaches financial or property loss through use of a scheme or artifice to defraud but also is designed and intended to protect the integrity of the United States and its agencies, programs and policies. **United States v. Burgin, 621 F.2d 1352, 1356 (5th Cir.), cert. denied, 449 U.S. 1015 (1980); see United States v. Herron, 825 F.2d 50, 57-58 (5th Cir.); United States v. Winkle, 587 F.2d 705, 708 (5th Cir. 1979), cert. denied, 444 U.S. 827 (1979)**. Thus, proof that the United States has been defrauded under this statute does not require any showing of monetary or proprietary loss. **United States v. Conover, 772 F.2d 765 (11th Cir. 1985), aff'd, sub. nom. Tanner v. United**

States, 483 U.S. 107 (1987); United States v. Del Toro, 513 F.2d 656 (2d Cir.), cert. denied, 423 U.S. 826 (1975); United States v. Jacobs, 475 F.2d 270 (2d Cir.), cert. denied, 414 U.S. 821 (1973).

Thus, if the defendant and others have engaged in dishonest practices in connection with a program administered by an agency of the Government, it constitutes a fraud on the United States under the law. In **United States v. Hopkins, 916 F.2d 207 (5th Cir. 1990)**, the defendants' actions in disguising contributions were designed to evade the Federal Election Commission's reporting requirements and constituted fraud on the agency under the law.

The intent required for a conspiracy to defraud the government is that the defendant possessed the intent

(a) to defraud,

(b) to make false statements or representations to the government or its agencies in order to obtain property of the government, or that the defendant performed acts or made statements that he/she knew to be false, fraudulent or deceitful to a government agency, which disrupted the functions of the agency or of the government.

It is sufficient for the government to prove that the defendant knew the statements were false or fraudulent when made. The government is not required to prove the statements ultimately resulted in any actual loss to the government of any property or funds, only that the defendant's activities impeded or interfered with legitimate governmental functions. **See United States v. Puerto, 730 F.2d 627 (11th Cir.), cert. denied, 469 U.S. 847 (1984); United States v. Tuohey, 867 F.2d 534 (9th Cir. 1989); United States v. Sprecher, 783 F. Supp. 133, 156 (S.D.N.Y. 1992)** .(Ã¾it is sufficient that the defendant engaged in acts that interfered with or obstructed a lawful governmental function by deceit, craft, trickery or by means that were dishonest"), modified on other grounds, **988 F.2d 318 (2d Cir. 1993)**.

In **United States v. Madeoy, 912 F.2d 1486 (D.C. Cir. 1990), cert. denied, 498 U.S. 1105 (1991)**, the defendants were convicted of conspiracy to defraud the government and other offenses in connection with a scheme to fraudulently obtain loan commitments from the Federal Housing Administration (FHA) or Veterans Administration (VA). The court held that the district court had properly instructed the jury that:

the Government must prove beyond a reasonable doubt the existence of a scheme or artifice to defraud, with the objective either of defrauding the FHA or the VA of their lawful right to conduct their business and affairs free from deceit, fraud or misrepresentation, or of obtaining money and property from the FHA by means of false and fraudulent representations and promises which the defendant knew to be false.

Madeoy, 912 F.2d at 1492.

In summary, those activities which courts have held defraud the United States under 18 U.S.C. § 371 affect the government in at least one of three ways:

1) They cheat the government out of money or property;
2) They interfere or obstruct legitimate Government activity; or
3) They make wrongful use of a governmental instrumentality.

In the instant case while we are examining the fraud conspiracy between Martin Kasekende, Yusuf Kagumire and Leonard Mpuuma among others, it will be critical for the prosecution to prove the above grounds on these people that can be construed from the information that I have provided below.

My Lord please note that, in the case of **Kampala Battlers Ltd v. Damanico (U) Ltd., S.C.C.A No. 22of 1992, Wambuzi, CJ (at page 5 of his judgment) quoting the trial judge on the definition of fraud that stated that;**

"It is well established that fraud means actual fraud or some act of dishonesty."

This was dishonest and fraudulent as disclosed as part of facebook posts and trite supports that fact that Martin Kasekende of the National Housing and Construction Corporation among others and Yusuf Kagumire of the Mitchell Cotts Limited and itssubsidiaries are dishonest and fraudulent as was held in Kampala Battlers Ltd v. Damanico (U) Ltd., S.C.C.A No. 22of 1992, Wambuzi, CJ (at page 5 of his judgment)

"Fraud means: (1) A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Fraud is usually a tort, but in some cases (esp……)

In Ram Chandra Singh v. Savitri Devi, (2003) 8 SCC 319, where in it **was observed that fraud vitiates** every solemn act. **Fraud** and justice never dwell together and it cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. This Court observed as under:

"15. Commission of **fraud** on court and suppression of material facts are the core issues involved in these m atters. **Fraud**, as is well known, vitiates every solemn act. **Fraud** and justice never dwell together.

In **Jai Narain Parasrampuria v. Pushpa Devi Saraf, (2006) 7 SCC 756**, this Court observed **that fraud vitiates every solemn act**. Any order or decree obtained by practicing fraud is a nullity. This Court held as under:

"55. It is now well settled that fraud vitiated all solemn act. Any order or decree obtained by practicing fraud is a nullity. **[See - (1) Ram Chandra Singh v. Savitri Devi and Ors., (2003) 8 SCC 319 followed in (2) Vice Chairman, Kendriya Vidyalaya Sangathan, and Anr. v. Girdhari Lal Yadav, (2004) 6 SCC 325; (3) State of A.P. and Anr. v. T. Suryachandra Rao, (2005) 6 SCC 149; (4) Ishwar Dutt v. Land Acquisition Collector and Anr., (2005) 7 SCC 190; (5) Lillykutty v. Scrutiny Committee, SC & ST Ors., (2005) 8 SCC 283;(6)ChiefEngineer,M.S.E.B. andAnr. v. Suresh Raghunath Bhokare, (2005) 10 SCC 465; (7) Smt. Satya v. Shri Teja Singh, (1975) 1 SCC 120; (8) Mahboob Sahab v. Sayed Ismail, (1995) 3 SCC 693; and (9) Asharfi Lal v. Koili, (1995) 4 SCC 163.]" (emphasis supplied).**So in the instant case we all now know that backed with legalese that this court is now privy too, the **Buganda Land Board that has been the agent of selling titles from the Kabaka of Buganda corporation soul is both a fraud and an illegality and therefore nothing legal can be obtained from it including all the titles that they have been claiming to sell to the non-suspecting public as I stated on my facebook blog and this is true and non-libelous and defamatory.**

In the instant case Martin Kasekende was the CEO of the National Housing Corporation in 2003 when under his management he was able to do a United States Dollar Eight Million swaption contract with the National Social Security Fund in a deal where he exchanged a forged freehold title over the land at Lubowa which is mailo land that belongs to Yusuf Suuna Kiweewa Omulangila of Nakigalala, Kansiiri, Busiro Buganda Province as you will subsequently discover. It is a basic common law principle that the mind of a company where guilty intent or responsibility is being considered cannot meaningfully be separated from the minds of the directors where the will of the company is to be discerned. In the case of **HL Bolton Co v. TJ Graham and Sons [1956] 3 All ER 624, Lord Denning held at page 630:**

"A company may in many ways be likened to a human body. They have a brain and a nerve center which controls what they do. They also have hands which hold the tools and act in accordance with directions from the center. Some of the people in the company are mere servants and agents who are nothing more than hands to do the

work and cannot be said to represent the mind or will. **Others are directors and managers who represent the directing mind and will of the company, and control what they do. The state of mind of these managers is the state of mind of the company and is treated by the law as such.... That is made clear in Lord Haldane's speech in Lennard's Carrying Co Ltd v Asiatic Petroleum Co Ltd ([1915] AC 705 at pp 713, 714).** So also in the criminal law, in cases where the law requires a guilty mind as a condition of a criminal offence, the guilty mind of the directors or the managers will render the company themselves guilty."

Indubitably, a company incorporated under the Companies Act, whether as a private limited company or a public limited company, is a juristic entity. The decisions of the Company are taken by the Board of Directors of a Company. The Company acts through its Board of Directors, and an individual Director cannot don the mantle of the Company by acting on its behalf, unless he is so authorized to act by a special resolution passed by the Board or unless the Articles of Association so warrant. It is equally well settled that a Director of a Company though he owes a fiduciary duty to the Company, he owes no contractual duty qua third parties. There are, however, two exceptions to this rule. The first is where the Director or Directors make themselves personally liable, i.e., by execution of personal guarantees, indemnities, etc. The second is where a Director induces a third party to act to his detriment by advancing a loan or money to the Company. **On the third party proving such fraudulent misrepresentation, a Director will be held personally liable to the said third party. It is, however, well settled that this liability would not flow from a contract, but would flow in an action at tort, the tort being of misrepresentation and of inducing the third party to act to his detriment and to part with money and this is where Martin Kasekende then CEO of the National Housing Corporation becomes liable under criminal torts with his matter being handled by this anti-corruption investing department well in 2023 though the matter happened in 2003.**

With the passage of time inroads have been made into the aforesaid legal principle that the company is a legal entity distinct from its shareholders and directors and certain exceptions have been carved out. One such inroad is commonly described as lifting or piercing of the corporate veil. This has been succinctly put by the **Supreme Court in Tata Engineering and Locomotive Co. Ltd. v. State of Bihar [1964]6SCR885** as follows:

"24. The true legal position in regard to the character of a corporation or a company which owes its incorporation to a statutory authority, is not in doubt or dispute. The Corporation in law is equal to a natural person and has a legal entity of its own. The entity of the Corporation is entirely separate from that of its shareholders; it bears its own name and has a seal of its own; its assets are separate and distinct from those of its members; it can sue and be sued exclusively for its own purpose; its creditors cannot obtain satisfaction from the assets of its members; the liability of the members or shareholders is limited to the capital invested by them; similarly, the creditors of the members have no right to the assets of the Corporation. This position has been well established ever since the decision in the case of Salomon v. Salomon and Co. was pronounced in 1897; and indeed, it has always been the well-recognized principle of common law. However, in the course of time, the doctrine that the Corporation or a Company has a legal and separate entity of its own has been subjected to certain exceptions by the application of the fiction that the veil of the Corporation can be lifted and its face examined in substance. The doctrine of the lifting of the veil thus marks a change in the attitude that law had originally adopted towards the concept of the separate entity or personality of the Corporation. As a result of the impact of the complexity of economic factors, judicial decisions have sometimes recognized exceptions to the rule about the juristic personality of the corporation. It may be that in course of time these exceptions may grow in number and to meet the requirements of different economic problems, the theory about the personality of the corporation may be confined more and more."

Similar observations were made by the **Supreme Court in the case of New Horizons Ltd. v. Union of India: (1995)1SCC478 :**

"27. The conclusion would not be different even if the matter is approached purely from the legal standpoint. It cannot be disputed that, in law, a company is a legal entity distinct from its members. It was so laid down by the House of Lords in 1897 in the leading case of Salomon v. Salomon & Co. Ever since this decision has been followed by the courts in England as well as in this country. But there have been inroads in the doctrine of corporate personality propounded in the said decision by statutory provisions as well as by judicial pronouncements. By the process, commonly described as "lifting the veil", the law either goes behind the corporate personality to the individual members or ignores the separate personality of each company in favor of the economic entity constituted by a group of associated companies. This course is adopted when it is found that the principle of corporate personality is too flagrantly opposed to justice, convenience or the interest of the Revenue. (See : Gower's Principles of Modern Company Law, 4th Edn., p.112.) This concept,

which is described as "piercing the veil" in the United States, has been thus put by Sanborn, J. in US v. Milwaukee Refrigerator Transit Co.4:

'When the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime, the law will regard the corporation as an association of persons.' "

The question therefore in the instant case is - **Can the corporate veil be lifted in the present case to reveal the identity of the person or persons behind it? The matter in this report is being brought to the attention of the investigating committee and therefore subsequently courts of law that will handle this matter.** From the above legal wisdom that we have derived from the supreme court, its only proper that investigations be done by calling in Martin Kasekende for questioning and he will then subsequently tell you all those he was involved with in making the USD 8.000.000/-(United States Eight Million Dollar) Fraud. The good thing with this report is that some of them have been put down below in this report from the intel that you will be subsequently privy too when you read this report in total.

The next question which arises for consideration is whether **Martin Kasekende Seremba together with others as Directors of the National Housing Corporation in 2003** made themselves personally liable for the dues of the Company. Reference in this context may be made to the judgment of this Court in **Tristar Consultants vs. Customer Services India Pvt. Ltd. And Anr., 139 (2007) DLT 688. Paragraphs 28 to 30** of the said judgment, which are apposite, read as under:-

"28. To interpret the law as is sought to be projected by the petitioner would mean negation of the concept of a company being limited by its liability as per the memorandum and articles of association of the company. Other than where directors have made themselves personally liable i.e. by way of guarantee, indemnity, etc. liabilities of directors of a company, under common law, are confined to cases of **malfeasance and misfeasance i.e**. where they have been guilty of tort towards those to whom they owe a duty of care i.e. discharge fiduciary obligations. Additionally, qua third parties, where directors have committed tort. To the third party, they may be personally liable.

29. **For example by making false representations about a company, a director induces a third party to advance a loan to the company. On proof of fraudulent misrepresentation, a director may be personally liable to the third party.**

30. But this liability would not flow from a contract but would flow in an action at tort. The tort being of misrepresentation of inducement and causing injury to the third party having induced the third party to part with money."

Malfeasance is an act that is illegal and causes physical or monetary harm to someone else. Malfeasance is intentional conduct that is wrongful or unlawful, especially by officials or public employees.

It is also well settled that fraud, if alleged, must be pleaded meticulously and in detail and proved to the hilt. A mere assertion that fraud has been committed is neither here nor there. Precisely and in what manner fraud has been committed is required to be delineated by the party alleging the same if the plea of fraud is to be made the basis of a decree against the other party. Bald assertions and vague allegations will not be countenanced by the Courts.

The question may also have to be examined from the point of view of administrative law. Needless to point out that administrative law, which also governs the exercise of power of judicial review by this Court is intended to see that all the public authorities, who are vested with powers discharge their duties and functions in accordance with rule of law, in a manner which is not illegal, irrational or improper. In post constitutional era, all the power exercised in the democratic governance flows from super statute **i.e., the Constitution of Uganda,1995**. There is no gainsaying that all power is a trust and the trust should be discharged legally, fairly, impartially and with accountability. There is always presumption - though rebuttable; in law that all public functions are discharged for public good in accordance with law. If a public authority is induced to discharge the trust (exercise power) in a manner which is fraudulent, whether such public authority can recall/revoke earlier fraudulent order? Insofar as the judicial authorities and Courts are concerned, it is now settled law that every Court in judicial hierarchy has inherent power to revoke an earlier order obtained by fraud.

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In Fraud **is a conduct which induces another person or authority to take a definite determinative stand in response to such person's conduct by words or letter. In his treatise on the 'Law of Fraud and Mistake', Kerr describes the elements of fraud as consisting in one man's endeavor by deception to alter another man's general rights; or in one man's endeavoring by circumvention to alter general rights of another or in one man's endeavoring by deception to alter another man's particular rights. Fraud and dispensation of justice by any authority - be it judicial or executive; do not go together. One species of fraud is misrepresentation. When the man misrepresents about some animate thing or inanimate thing which is quite opposite to the reality, he would be committing fraud by misrepresentation.** The effect of fraud on the person or the benefit derived by such person is a cipher. "Fraud unravels everything and no Court can allow a person to keep an advantage obtained by fraud nor Judgment of a Court or an order of a public authority can be allowed to stand if the same is obtained by fraud". That was so held in a well-known Judgment viz., **Lazarus Estates, Limited v. Beasley (1956) 1 All E.R. 341**. This is accepted in Ugandan Law as well.

In **Shrisht Dhawan v. Shaw Brothers** , the Supreme Court held as under.

Fraud and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence. It is a concept descriptive of human conduct. **Michael Levi likens a fraudster to Milton's sorcerer, Comus, who exulted in his ability to, 'wing me into the easy-hearted man and trap him into shares'**. It has been defined as **an act of trickery or deceit.** In Webster's Third New International Dictionary **fraud in equity has been defined as an act or omission to act or concealment by which one person obtains an advantage against conscience over another or which equity or public policy forbids as being prejudicial to another**. In Black's Legal Dictionary, **fraud is defined as an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or surrender a legal right; a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury**. In Concise Oxford Dictionary, it has been defined as **criminal deception, use of false representation to gain unjust advantage; dishonest artifice or trick.... From dictionary meaning or even otherwise fraud arises out of deliberate active role of representator about a fact which he knows to be untrue yet he succeeds in misleading the representee by making him believe it to be true.** The representation to become fraudulent must be of fact with knowledge that it is false.

In **S.P. Chengalvaraya Naidu v. Jagannath** , quoting Lord Edward Coke **(that 'fraud avoids all judicial acts, ecclesiastical or temporal',) Supreme Court of India emphasized that the Judgment or decree obtained by fraud on the Court is nullity and non-est in the eye of law.** It was also held that a decree/Judgment vitiated by fraud must be ignored treating it as nullity by every Court whether superior or inferior as **"finality of litigation is not available when fraud is alleged"**. The following passage from the said Judgment is relevant here.

"...The principle of "finality of litigation" cannot be passed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The Courts of law are meant for imparting justice between the parties. One who comes to the Court, must come with clean hands. We are constrained to say that more often than not. Process of the Court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the Court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a

person whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation.... A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage...."

I am open to the fact that those running the National Social Security Fund at present will want to tell you that they are a number of court rulings that they have obtained that actually confirm that the land that the National Social Security Fund is occupying at Lubowa is correctly for the NSSF but these rulings never took into consideration that manner in which **the NSSF acquired the land in question and they have also never asked themselves why the National Social Security Fund claims** to be having a freehold title over the land in question which is historically Private Mailo land. Since the land at Lubowa is Private Mailo land, this implies that the same land was registered private mailo vides the records and investigations that you will see below and anyone wanting to give justification for freehold title that the National Social Security Fund presently holds should do so in compliance with **effect 68 of the Registration of Titles Act Cap 230** that I will share with you below.

68. History of various dealings affecting land to be preserved

Such references shall be noted in the Register Book and on instruments filed hereunder as will allow the title to be traced either downwards from or upwards to the original certificate of title; but it shall not be necessary in any certified copy of any grant, certificate or instrument to insert such references; and every such copy shall be deemed complete, notwithstanding the omission of such references.

So this implies that any one who wants to give the NSSF Freehold title legal justification should do so in compliance with the above legal effect. The failure to comply with provisions of the law meant that the Chief Registrar of Titles exercised power illegally with material irregularity, which rendered his actions on the title null and void. It was held **Makula International Ltd. v. His Eminence Cardinal Nsubuga & A' nor [1982] HCB 11** that an illegality once brought to the attention of court cannot be condoned.

Apart from the above, it also found that by taking a decision affecting rights of the Mailo Landlord without according them opportunity to be heard the Chief Registrar of Titles exercised power improperly. This invariably violated the cardinal principle of natural justice as relates to a fair hearing, and that a party shall not be condemned unheard. It is settled that an administrative body/person acts improperly and or illegally where it/he exercises its/his power to decide a question without affording a party affected by the decision an opportunity to be heard, or where the procedure adopted in dealing with the dispute is contrary to principles of natural justice. **See: Re: Musinguzi Geoffrey and Kiruhura District Local Administration, HCT– 05 – CV – MA – 193 – 2011 (unreported).** It is also the trite law that a decision reached by an administrative body/person which violates principles of natural justice shall not be left to stand. **See: See Sharp v. Welefield (1981) A.C 173** which was relied upon in **Re: Interdiction of Bukeni Fred Misc. Appl.No. 139 of 1991, per Musoke – Kibuuka J.**

The principle is thus well settled that all the Courts and judicial forums in Uganda have inherent power to recall or revoke the order passed earlier when it is shown that such order came to be passed by reason of **fraud played on the Court**. **What is the effect of fraud in public administration when power is exercised by either administrative/executive authorities or statutory authorities?** This was precisely the question considered by the **Supreme Court in Indian Bank v. Satyam Fibres India Private Limited (paras 20 and 23).** While observing that the **judiciary in India possesses inherent power under Section 151 of Code of Civil Procedure, 1908 (CPC), to recall its Judgment or order obtained by fraud on the Court**, the apex Court ruled as under.

This plea could not have been legally ignored by the Commission which needs to be reminded that the authorities, be they constitutional, statutory or administrative, (and particularly those who have to decide a lis) possess the power to recall their judgments or orders if they are obtained by fraud as fraud and justice never dwell together **(Fraus et jus nunquam cohabitant)**. It has been repeatedly said that fraud and deceit defend or excuse no man **(Fraus et dolus nemini patrocinari debent)**.... Since fraud affects the solemnity, regularity and orderliness of the proceedings of the court and also amounts to an abuse of the process of court, the courts have been held to have inherent power to set aside an order obtained by fraud practiced upon that court. Similarly, where the court is misled by a party or the court itself commits a mistake which prejudices a party, the court has the inherent power to recall its order. **See : Benoy Krishna Mukerjee v. Mohanlal Goenka AIR 1950 Cal. 287; Gajanand Sha v. Dayanand Thakur AIR 1943 Pat. 127 : ILR 21 Pat. 838; Krishnakumar v. Jawand Singh AIR 1947 Nag. 236 : ILR 1947 Nag. 190; Devendra Nath Sarkar v. Ram Rachpal Singh ILR (1926) 1 Luck 341 : AIR 1926 Oudh 315; Saiyed Mohd. Raza v. Ram Saroop ILR (1929) 4 Luck 562 : AIR 1929 Oudh 385 (F.B.); Bankey Behari Lal v. Abdul Rahman ILR (1932) 7 Luck 350 : AIR 1932 Oudh 63; Lekshmi Amma Chacki Amma v. Mammen Mammen 1955 Ker L.T. 459.** The court has also the inherent power to set aside a sale brought about by fraud practiced upon the court **Ishwar Mahton v. Sitaram Kumat AIR 1954 Pat. 450** or to set aside the order recording compromise obtained by fraud. **Bindeshwari Pd. Chaudhary v. Debendra Pd. Singh ; Tara Bai v. V.S. Krishnaswamy Rao .**

It is thus law of the land that even administrative authorities have inherent powers to recall or revoke their own orders if such order was obtained by playing fraud on such public authority. As a necessary corollary if something is done by public authority at the behest of a person who played fraud, the same public authority can nullify that was done as vitiated by fraud. As observed by the Supreme Court in **(Indian Bank v. Satyam Fibres India Private Limited (paras 20 and 23).),** inherent powers spring not from legislation but from the nature and conservation of the authorities, to enable them to maintain their dignity, secure obedience to process and ensure transparency. This Court is able to place its hands on two decisions of the Supreme Court, in which the administrative authorities rectified their earlier orders on the ground of fraud and the same received approval by the Supreme Court. These are **District Collector and Chairman, Vizianagaram v. M. Tripurasundari Devi and Union of India v. M. Bhaskaran 1995 Supp. (4) SCC 100.**

So with the above wisdom in our ambit, previous court judgements that have been given with the intention of giving the forged freehold title that the National Social Security Fund holds over the land at Lubowa legitimacy at the expense of the legitimate landlord will have to be revoked by the new evidence that is an offshoot of the investigation that we have subject to Martin Kasekende hereunder that you will be excited to discover.

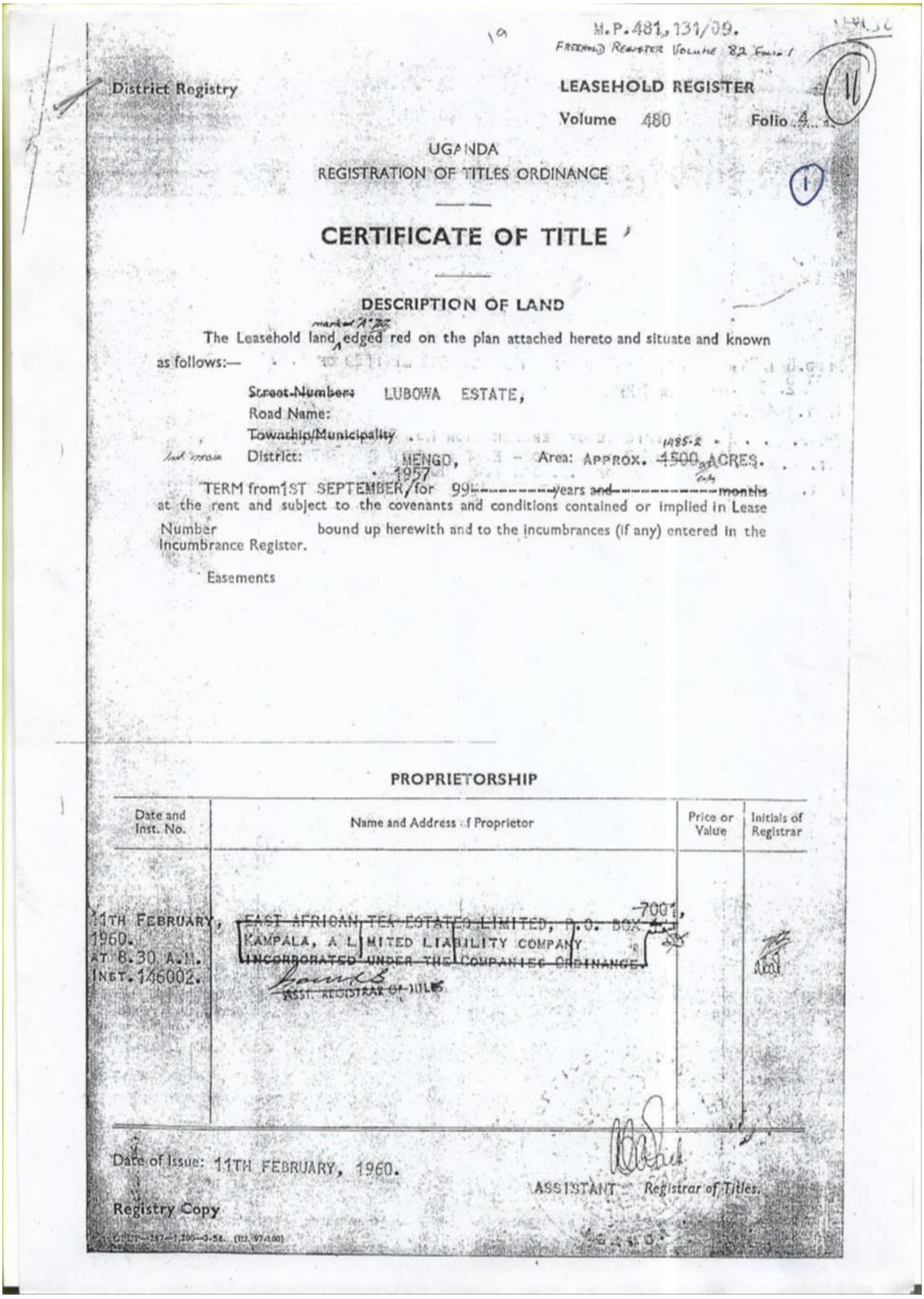
WHETHER THE STATUTE OF LIMITATIONS CAN BE USED AS A LEGAL BAR TO THE INVESTIGATIONS OF FRAUD DONE BY MARTIN KASEKENDE IN 2003.

A statute of limitations is a law setting a time limit for initiating a lawsuit or criminal prosecution, ensuring fairness by preventing stale claims and allowing people to move on with their lives after a certain period. The length of this period varies depending on the type of case (civil or criminal) and the specific jurisdiction, such as a U.S. state or country. If a lawsuit is not filed within this specified timeframe, the claim may be dismissed and can no longer be pursued.

Purpose of Statutes of Limitations
Fairness and Resolution: They provide closure for all parties by ending the possibility of potential lawsuits indefinitely after a reasonable period.
Evidence Preservation: Over time, memories fade, and evidence can be lost or degraded, making it difficult to have a fair and reliable trial.
Prompt Investigation: Statutes of limitations encourage prompt action by victims, plaintiffs, and prosecutors to investigate and pursue cases.

Statutes of limitations were not created to legalize fraud; they were enacted to promote justice and fairness by requiring legal proceedings to be initiated within a specific timeframe, preventing the prosecution of **"stale claims"** where evidence is lost and memories have faded. While **fraud is often an exception where the statute of limitations may be extended,** particularly under **a discovery rule,** the general purpose of the law is to bring claims to court promptly. The principle of " **Statute of limitations** " cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants like the **National Social Security Fund,Roofings Limited, Kampala International School, SAS Clinic, the National Housing Corporation and many others who have all along wanted to use the statute of limitations as the tool for perpetuating fraud that they derive from holding forged titles over the land at Lubowa.** The courts of law are meant for imparting justice between the parties. One, who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation. The Supreme Court has consistently applied the "clean hands" doctrine, particularly in equitable jurisdiction, requiring a litigant to approach the court with clean hands, candid facts, and honest objectives. Key case law includes **Udyami Evam Khadi Gramodyog Welfare Sanstha v. State of Uttar Pradesh (2008**), where the Court emphasized that a writ remedy is equitable and requires clean hands to prevent abuse of the process. Also significant are **K.D. Sharma v. Steel Authority of India Ltd. (2008**), which highlighted the prohibition against suppressing material facts, and **Dalip Singh v. State of U.P. (2010),** reinforcing that parties with **"unclean hands"** are not entitled to be heard on the merits of their case. Where such statement of facts is based on some information, the source of such information must also be disclosed. Totally misconceived petition amounts to abuse of the process of the court and such a litigant is not required to be dealt with lightly, as a petition containing misleading and inaccurate statement, if filed, to achieve an ulterior purpose amounts to abuse of the process of the court. A litigant is bound to make **"full and true disclosure of facts". (Refer : Tilokchand H.B. Motichand & Ors. v. Munshi & Anr. [1969 (1) SCC 110]; A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam & Anr. [(2012) 6 SCC 430]; Chandra Shashi v. Anil Kumar Verma [(1995) SCC 1 421]; Abhyudya Sanstha v. Union of India & Ors. [(2011) 6 SCC 145]; State of Madhya Pradesh v. Narmada Bachao Andolan & Anr. [(2011) 7 SCC 639]; Kalyaneshwari v. Union of India & Anr. [(2011) 3 SCC 287)].** In the case of **Peter Mulira vs. Mitchell Cotts Ltd CACA No. 15/2002,** the land in question was under litigation for a mortgage that had been established from the copy of title that you are going to see below that would have been disclosed in all cases that deal with the land at Lubowa, and

we now want to present it to this court. This is a case that was litigated by Peter Mulira and Kirwowa Kiwanuka as Counsel for the prior mentioned person, while the side of Mitchell Cotts Limited which claims to be the owner of the land in question and is rensiposnsible for having produced the title for the land that you see below was represented by **Peter Walubiri, a Ugandan Lawyer**. The title they produced in court to justify the ownership is below.



M.P. 481, 131/09.
FREEHOLD REGISTER VOLUME 82 FOLIO 1

District Registry

LEASEHOLD REGISTER

Volume 480 Folio 4

UGANDA
REGISTRATION OF TITLES ORDINANCE

CERTIFICATE OF TITLE

DESCRIPTION OF LAND

The Leasehold land marked A edged red on the plan attached hereto and situate and known as follows:—

~~Street Number~~: LUBOWA ESTATE,
Road Name:
~~Township/Municipality~~
District: MENGO, - Area: APPROX. ~~4500~~ 1495·2 ACRES.

TERM from 1ST SEPTEMBER, 1957 for 99 ~~years and months~~ at the rent and subject to the covenants and conditions contained or implied in Lease Number bound up herewith and to the incumbrances (if any) entered in the Incumbrance Register.

Easements

PROPRIETORSHIP

Date and Inst. No.	Name and Address of Proprietor	Price or Value	Initials of Registrar
11TH FEBRUARY, 1960. AT 8.30 A.M. INST. 146002.	~~EAST AFRICAN TEA ESTATES LIMITED, P.O. BOX 7001,~~ KAMPALA, A LIMITED LIABILITY COMPANY ~~INCORPORATED UNDER THE COMPANIES ORDINANCE.~~ ASST. REGISTRAR OF TITLES		

Date of Issue: 11TH FEBRUARY, 1960.

ASSISTANT Registrar of Titles.

Registry Copy

GPUP—287—1,200—3-58. (112,707-100)

Less 7%

REGD. 7/11/68. PLOT 49 BEING PART OF THE SAID LAND SURRENDERED
AT 11.30 A.M. TO THE LESSOR, and shown on the plan marked "B"
INST. 175014. annexed hereto.

ASST. REGISTRAR OF TITLES

REGD. 28TH JANUARY, 1970, AT 10.30 A.M. INST. 179684

~~THE UGANDA COMPANY LIMITED A LIMITED LIABILITY COMPANY INCORPORATED UNDER THE COMPANIES ACT WHOSE POSTAL ADDRESS IS P.O. BOX 7004, KAMPALA.~~

ASSISTANT REGISTRAR OF TITLES

REGD. 8/1/71, AT 2.35 P.M. INST. 184313.

THE EAST AFRICAN TEA ESTATES LIMITED OF P.O. BOX 7001, KAMPALA.

ASST. REGISTRAR OF TITLES

REGD. 12.2.88. AT. 11.59.A.M. INST. 234324.

CERTIFICATE OF REPOSSESSION NO. 0411 DATED 18/12/87 ISSUED TO:- EAST AFRICAN TEA ESTATES LIMITED OF P.O. BOX 7001, KAMPALA.

CHIEF REGISTRAR OF TITLES

So without presenting the title above that we all saw in the case of **Peter Mulira vs. Mitchell Cotts Ltd CACA No. 15/2002** that is also on court record for it formed the basis of the litigation and without doing the due diligence that has been set up by court as ruled in the case of **konda Zimula v Byarugaba & anor (H.C.C.S. No. 66 of 2007) [2014] UGHCLD 68 (10 November 2014)** and following the wisdom that has been given by the Supreme Court in the case of **Dina Management Limited v County Government of Mombasa (2023). The Supreme Court emphasized that bona fide purchasers have the responsibility to substantiate the validity and legality of their acquired property title. Just being in possession of a title document does not automatically qualify a party as a bona fide purchaser when the root of the title is challenged.** A good root of title is one that demonstrates that the procedure for issuing the title or lease complied with the law, contains a recognizable description of the property, and does not cast any doubt on the validity of the title.

We expect that this judgment will expand the nature of due diligence conducted in property transactions as more caution will be required prior to engaging in property transactions. Broadly, due diligence over land involves investigating the property details, verifying the ownership of the property, carrying out a historic and physical check and scrutinizing the legal aspects affecting a parcel of land. It aims to ensure that a bona fide purchaser makes informed decisions when buying property and subsequently safeguards the interests of a purchaser or investor with respect to real estate transactions. Due diligence in real estate transactions involves verifying several key elements that affect the integrity and legality of a property deal. This includes checking the legal title, confirming the property's physical status, assessing compliance with zoning laws, and understanding any financial encumbrances that might be tied to the property.

A person Like the National Social Security Fund that fails to do the required due diligence prior to purchase of land cannot wake up in the morning and claim that it's a bonna fide purchaser for value with no notice of fraud. The failure to do due diligence will render it liable legally as ruled in the supreme court in the case of **Dina Management Limited v County Government of Mombasa (2023)** and by doing so will be bringing claims with unclean hands, a maxim that courts of equity have always denied based on the legal wisdom mentioned subsequent.

The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equi-fundamentals of judicious litigation. The legal maxim **jure naturae aequum est neminem cum alterius detrimento** et **injuria fieri locupletiorem,** which means that it is a law of nature that one should not be enriched by the loss or injury to another, is the percept for Courts. Wide jurisdiction of the court should not become a source of abuse of the process of law by the disgruntled litigant. Careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose the true facts and approach the court with clean hands. From the above specific averments made, it is clear that the **National Social Security Fund and others claiming land at Lubowa that has no correlation with the original ownership of the land that we all know is for Yusuf Suuna Kiweewa of Kansiiri Busiro Buganda Province** have approached the Court with falsehood, unclean hands and have misled the courts by showing urgency and exigencies in relation to an incident of **Miscellaneous Application Number 121 of 2024, Arising from Miscellaneous Couse Number 732 of 2021, Attorney General and Commissioner Land Registration versus Kigala Joseph, Steven Kikonyogo,Fredrick James Jjuunju,Nakalali Abdultif and Sirimani Sebirumbi** which, in fact, according to us without disclosing the facts that underlie **the title** that we have seen above that applies to the case of **Peter Mulira vs. Mitchell Cotts Ltd CACA No. 15/2002 that is on court record and in court custody and how the same correlates with the National Social Security Fund title that they presently hold shows dishonesty and fraud that was ruled in** the case of **Kampala Battlers Ltd v. Damanico (U) Ltd., S.C.C.A No. 22of 1992, Wambuzi, CJ (at page 5 of his judgment)** quoting the trial judge on the definition of fraud that stated that;

> **"It is well established that fraud means actual fraud or some act of dishonesty.**

So by the mere fact that the petitioners of **Miscellaneous Application Number 121 of 2024, Arising from Miscellaneous Couse Number 732 of 2021, Attorney General and Commissioner Land Registration versus Kigala Joseph, Steven Kikonyogo, Fredrick James Jjuunju,Nakalali Abdultif and Sirimani Sebirumbi** did not disclose to court how there interest correlates with the title that we have seen drawn from the ruling in **Peter Mulira vs. Mitchell Cotts Ltd CACA No. 15/2002** they disclosed false information with the intention of

giving there forged title the basis of claim yet the same has no correlation at all with the original ownership of the land in question as required by **effect 68 of the Registration of Titles Act,Cap 205, 230 and 240** of the laws of Uganda , have thus abused the process of the court and misused the judicial process.

The architects of **Miscellaneous Application Number 121 of 2024, Arising from Miscellaneous Couse Number 732 of 2021, Attorney General and Commissioner Land Registration versus Kigala Joseph, Steven Kikonyogo, Fredrick James Jjuunju, Nakalali Abdultif and Sirimani Sebirumbi** maliciously and with ulterior motives encroached upon the valuable time of the Court and wasted public money. It is a settled canon that no litigant has a right to unlimited drought upon the court time and public money in order to get his affairs settled in the manner as he wishes. The privilege of easy access to justice has been abused by these petitioners by **filing frivolous and misconceived petitions.** On the basis of incorrect and incomplete allegations, they had created urgency for expeditious hearing of the petitions, which never existed. **Even this Court had to spend days to reach at the truth.** Prima facie it is clear that architects of **Miscellaneous Application Number 121 of 2024, Arising from Miscellaneous Couse Number 732 of 2021, Attorney General and Commissioner Land Registration versus Kigala Joseph, Steven Kikonyogo, Fredrick James Jjuunju,Nakalali Abdultif and Sirimani Sebirumbi** have mis- stated facts, withheld true facts and even given false and incorrect presents. They well knew that Courts are going to rely upon their pleadings and presents while passing appropriate orders. Truth being the basis of justice delivery system, it was important for this Court to reach at the truth, which we were able to reach at with the able assistance of all the counsel and have no hesitation in holding that the **Miscellaneous Application Number 121 of 2024, Arising from Miscellaneous Couse Number 732 of 2021, Attorney General and Commissioner Land Registration versus Kigala Joseph, Steven Kikonyogo, Fredrick James Jjuunju,Nakalali Abdultif and Sirimani Sebirumbi** case suffered from falsehood, was misconceived and was a patent misuse of judicial process. Abuse of the process of the Court and not approaching the Court with complete facts and clean hands, has compelled and will lead the Judge of this Court to impose heavy and penal costs on the persons acting as next friends in the writ petitions before the High Court. This Court cannot permit the judicial process to become an instrument of oppression or abuse or to subvert justice by unscrupulous litigants like the architects of **Miscellaneous Application Number 121 of 2024, Arising from Miscellaneous Couse Number 732 of 2021, Attorney General and Commissioner Land Registration versus Kigala Joseph, Steven Kikonyogo, Fredrick James Jjuunju,Nakalali Abdultif and Sirimani Sebirumbi** in the present case.

It is well-settled that the jurisdiction exercised by the High Court under **Article 28 of the Constitution** of Uganda is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the writ court must come with clean hands and put forward all facts before the Court without concealing or suppressing anything. A litigant is bound to state all facts which are relevant to the litigation. **If he withholds some vital or relevant material in order to gain advantage over the other side then he would be guilty of playing fraud with the court as well as with the opposite parties which cannot be countenanced.**

In **Udyami Evam Khadi Gramodyog Welfare Sanstha and Another v. State of Uttar Pradesh and Others**, the Court has reiterated that the writ remedy is an equitable one and a person approaching a superior court must come with a pair of clean hands. Such person should not suppress any material fact but also 1 **(2007) 8 SCC 449 2 (2008) 1 SCC 560** should not take recourse to legal proceedings over and over again which amounts to abuse of the process of law. The judgment in **State Of Karnataka vs Y Moideen Kunhi on 20 November, 2023**) on which reliance has been placed by **Shri Harin P. Raval** contains reiteration of the settled principles of law that the Court should be liberal in exercising power under **Section 5 of the Limitation Act** and cognizance can be taken of the impersonal character of the Government as also inefficiency, lethargy and tardiness in the functioning of the State and its agencies which, at times, results in delay and that while deciding the application for condonation of delay, **the Court should keep in mind the larger public interest.** However, that proposition cannot be invoked in the architects of **Miscellaneous Application Number 121 of 2024, Arising from Miscellaneous Couse Number 732 of 2021, Attorney General and Commissioner Land Registration versus Kigala Joseph, Steven Kikonyogo, Fredrick James Jjuunju,Nakalali Abdultif and Sirimani Sebirumbi** 's case because it has been found guilty of suppression of facts and making misleading statement.

If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim. The same rule was reiterated in **G. Jayshree and others v. Bhagwandas S. Patel and others (2009) 3 SCC 141**.

What would be the effect of suppression of earlier proceedings has been considered by this Court in the case of **S.P Chengalvaraya Naidu vs Jagannath on 27 October, 1993 Equivalent citations: 1994 AIR 853, 1994 SCC (1) 1**. The Court observed thus:

> "……The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that "there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence". The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation……."

It is trite law that so as to enable the court to refuse to exercise its discretionary jurisdiction suppression must be of material fact. What would be a material fact, suppression whereof would disentitle the appellant to obtain a discretionary relief, would depend upon the facts and circumstances of each case. Material fact would mean material for the purpose of determination of the lis, the logical corollary whereof would be that whether the same was material for grant or denial of the relief. If the fact suppressed is not material for determination of the lis between the parties, the court may not refuse to exercise its discretionary jurisdiction. It is also trite that a person invoking the discretionary jurisdiction of the court cannot be allowed to approach it with a pair of dirty hands. But even if the said dirt is removed and the hands become clean, whether the relief would still be denied is the question.

A perusal of the averments in the writ petition do not reveal any mention of **Peter Mulira vs. Mitchell Cotts Ltd CACA No. 15/2002** whose proceeds when disclosed and substantive documents like the Lubowa title used there in would have shown the whole world that the title being used by the National Social Security Fund Limited as the basis of claim has no correlation with the original records as required by **effect 68 of the Registration of Titles Act,Cap 230 which would imply that the instrument used as the basis of claim is indeed fraud in the factum or situation that is analogous to forgery.** Suppression of a material fact on the part of the architects of **Miscellaneous Application Number 121 of 2024, Arising from Miscellaneous Couse Number 732 of 2021, Attorney General and Commissioner Land Registration versus Kigala Joseph, Steven Kikonyogo, Fredrick James Jjuunju,Nakalali Abdultif and Sirimani Sebirumbi** 's case is indeed discernible which, if pleaded, could have altered the outcome of the writ petition. A very innocuous prayer was, however, made for effecting mutation in terms of the final decree, without disclosing that mutation was being asked for in respect of a piece of land over which the State itself had been claiming title and Yusuf Suuna Kiweewa too who is the original landlord has a claim over which no one can extinguish. A writ court being a court of equity, it is needless to observe that the parties are bound to approach the court with clean hands. In as much as the aforesaid fact of **Peter Mulira vs. Mitchell Cotts Ltd CACA No. 15/2002 and the copy of the lease title for the land that the Mitchell Cotts Limited used to lay claims against Peter Mulira** was not brought to the writ court's notice, an egregious breach of such principle is noticed. Suppression of such a material fact, as in the present case, could legitimately be argued to amount **to a fraud on court**. There can hardly be two opinions that such breach would strike at the very root of the matter and **since a point of fraud can be raised even collaterally, if the point of fraud had been raised,** the writ petition itself could have been held non-maintainable. We will next have to examine the Martin Kasekende issue of sale of the land in question to NSSF.

It's no longer a public secret, while Martin Kasekende ,was the managing directors of the National Housing and Construction Corporation, they teamed up with Leonard Mpuuma then Managing director of the National Social Security fund and with the approval of the Boards for both parties, they transacted in a forged freehold title that is the basis of claim that was used by the architects of **Miscellaneous Application Number 121 of 2024, Arising from Miscellaneous Couse Number 732 of 2021, Attorney General and Commissioner Land Registration versus Kigala Joseph, Steven Kikonyogo, Fredrick James Jjuunju,Nakalali Abdultif and Sirimani Sebirumbi** 's case over the land at Lubowa. We cannot blame **Isaac Ogwang, the Legal Officer** for the NSSF from making such a claim because he has a stake in the Lubowa land that is a proceed of a scheme of fraudulent contrivance that was **hatched by Leonard Mpuuma former MD of NSSF, Martin Kasekende, previously Board Member of the NSSF subsidiary Uganda Clays** but formerly the **Managing Director of National Housing and Construction Corporation that sold the NSSF the forged Lubowa title**, as a result of a scheme of fraud **that Martin Kasekende had hatched with Yusuf Kagumire** , the in charge of **all business for Mitchell Cotts Limited and its subsidiaries** that include but are not limited to the **Uganda Company Holdings Limited, The Uganda Company Limited, Market New Public Limited Company, Aqua Investments Limited among others** as he did affirm to the **Ugandan Courts of Law** in the case of **Peter Mulira vs. Mitchell Cotts Ltd CACA No. 15/2002. The question we have at hand is that, does the NSSF hold a legitimate Lubowa land title that is free of fraud, liens and encumbrances?**

The Answer is "NO" because Martin Kasekende sold the National Social Security Fund a title that was **"Fraud in Factum".**

In **12 California Jurisprudence, at pages 722-723**, it is stated:

"... In dealing with the effect of fraud, the courts distinguish between those cases in which a purported instrument never had any legal inception or existence--due to the fact that one party was induced to execute an agreement totally different from that which he apparently made, or where, due to the fraud, there was no execution at all--and those cases in which the agreement was induced by fraudulent misrepresentations or concealments which in no degree make the instrument anything other than it purports to be. In the first case it is clear that the purported agreement is void ab initio and an action to avoid it may be brought at any time, or it may be treated as nonexistent; while in the second case the agreement is voidable and may be rescinded at the election of the party defrauded, but not at the behest of the party by whom the fraud was perpetrated.

"An illustration of a void transaction is afforded where one, at the time totally incapacitated from attending to business, is induced to sign a deed when, in fact, he believes, because of fraudulent misrepresentations, that he is merely signing a letter addressed to a third person."

And in **26 Corpus Juris Secundum, at pages 307 and 308**, it is stated:

"A void deed passes no title, and cannot be made the foundation of a good title even under the equitable doctrine of bona fide purchase. ... "

"……Ordinarily a deed procured by fraud is not void but is merely voidable. Where the grantor knowingly executes the very instrument intended, but is induced to do so by some fraud in the treaty or by some fraudulent representation or pretense, his deed is merely voidable, although, where there is **fraud in the factum, as where the grantor intends to execute one instrument but another is surreptitiously substituted in its place and the grantor is fraudulently made to sign, seal, and deliver an instrument different from that intended, it would seem that such fraud in the factum renders the deed not merely voidable but**

absolutely void, and, where without negligence chargeable to the grantor there is no effective delivery because of fraud or other cause, the deed will be held void……."

Applying these well settled principles to the instant case we are convinced that this cause of action does sufficiently state a cause of action against **Martin Kasekende and the other directors of the National Housing and Construction Corporation and the other parties they connived with which you will now discover** upon the theory that THE MITCHELL COTTS SUBSIDIARY TITLE that was delivered **to National Housing and Construction Corporation by the former Chief Registrar of Titles YUSUF KAGUMIRE**, and also business representative of the Mitchell Cotts Limited and its subsidiaries as per his presents in **Peter Mulira v Mitchel Cotts Ltd (Civil Appeal No. 15 of 2002) [2004] UGCA 8 (3 April 2004)**'s deed was void because it is alleged therein that it was wholly without understanding within the meaning of the **Registration of Titles Act,Cap 230.**

Under such circumstances there was **no effective execution or delivery of title** to **the National Social Security Fund Limited of Uganda**, and as stated **in the quotation of 12 California Jurisprudence, supra**, it was **void ab initio and an action to avoid it could be brought at any time.** And as stated in **26 Corpus Juris Secundum, supra, "A void deed passes no title and cannot be made the foundation of a good title even under the equitable doctrine of bona fide purchase." So we can now comfortably say that based on the above legal presents, it very clear that the National Social Security Fund has no land at Lubowa at all and can therefore not exercise any right of ownership whether statutory or equitable because void things are nothings.**

In **Marden v Dorthy,** this Court held that a forged deed was void at its inception, finding it to be a "spurious or fabricated paper" **(160 NY 39, 47 [1899])**, a forgery characterized by "the fraudulent making of a writing to the prejudice of another's rights" **(id. at 53)**. As Marden noted, a forged deed lacks the voluntariness of conveyance **(see id. at 54)**. Therefore, it holds a unique position in the law; a legal nullity at its creation is never entitled to legal effect because "void things are as no things" **(id. at 56)**.

A forged deed, however, cannot convey good title, and "it is legally impossible for anyone to become a bona fide purchaser of real estate, or a purchaser at all, from one who never had any title, and that is this case" **(id. at 56; see also Yin Wu v Wu, 288 AD2d 104, 105 [1st Dept 2001]** ["A forged deed is void and conveys no title"]; **2-15 Warren's Weed New York Real Property § 15.01** ["A purchaser who takes title through a forged deed cannot be a bona fide purchaser, even if the purchaser did not have knowledge of the forgery"]). The Jurisprudence rules reflects a general well-established principle of real property law **(see e.g. Harding v Ja Laur Corp., 20 Md App 209, 214 [Md Ct Spec App 1974]** ["A forged deed . . . is void ab initio"]; **Scott D. Erler, D.D.S. Profit Sharing Plan v Creative Fin. & Investments, L.L.C., 349 Mont 207, 214 [2009]** ["forged conveyances are void ab initio and do not transfer title"]; **Brock v Yale Mortg. Corp., 287 Ga 849, 852 [2010]** ["we have also long recognized that a forged deed is a nullity and vests no title in a grantee"]; **Akins v Vermast, 150 Or App 236 n 7 [Or Ct App 1997]** "If fraud is 'in factum,' such as a forged deed or a situation analogous to forgery, the deed is void ab initio and will not support subsequent title in any person"]; **First Nat. Bank in Albuquerque v Enriquez, 96 NM 714, 716 [1981]** ["a forged deed is a void deed and transfers no interest"]; **Williams v Warren, 214 Ark 506, 511 [1949]** ["No one can claim that an estate in land should be divested by forgery"])

In the instant case, there is no way the deeds that were signed by Martin Kasekende for the National Housing Corporation and Leonard Mpuuma for the National Social Security Fund taking over the Lubowa land that we all know is private mailo can be given legitimacy and be taken to transfer ownership of the land because, its **fraud in the factum.**
Another school of thought will want to tell the world that NSSF has already mortgaged the land and it has a project on it. This does not give it right to the property and this is supported by the legalese subsequent. It is similarly true that no property shall be encumbered, **including by a mortgagee,** in reliance on a forged deed **(see Marden, 160 NY at 51; see also Cruz v Cruz, 37 AD3d 754, 754 [2d Dept 2007][**"A deed based on forgery or obtained by false pretenses i**s void ab initio, and a mortgage based on such a deed is likewise invalid"]; Jiles v Archer, 116 AD3d 664, 666 [2d Dept 2014]** ["If a document purportedly conveying a property interest is void, it conveys nothing, and a subsequent bona fide purchaser or bona fide

encumbrancer for value receives nothing"]; **2-15 Warren's Weed New York Real Property § 15.09** ["If the conveyance is void, the purchaser or encumbrancer will not enjoy any of the rights of a bona fide purchaser"]; **43A NY Jur 2d Deeds § 218** ["a forged deed is null and void, and conveys nothing, and a purchaser or mortgagee from the grantee, even for value and without notice of the forgery, will not be protected"]).**No one can now claim that the grantee in the spurious paper ever received any title whatever under it, and, of course, National Social Security Fund could not convey any better title through the mortgage than it had herself, unless some estoppel was established, and none was found.** There is absolutely no act of the National Social Security Fund upon which any right or equity can be based in favor of the mortgagees.

The parties who made loans on the faith of a false record, had they but inquired of the National Social Security Fund and the manner in which it acquired the property at Lubowa, all the facts would have been revealed. They all resided in the same city, and all that was necessary for the mortgagees to do in order to defeat the fraud and save themselves from loss, was to visit the premises and take note of what such a visit would disclose. In omitting such a plain precaution the parties who proposed to loan money to National Social Security Fund on the faith of a fictitious paper title have deprived themselves of the right to say that the freehold title that the NSSF presented as there security and the search they did at the Ministry of Lands, Housing and Urban Development was the primary cause of their loss. They would have followed the due diligence wisdom given by Lord Justice J.W Kwesiga in **konda Zimula v Byarugaba & Anor (HCCS 66 of 2007) [2014] UGHCLD 68 (10 November 2014)** were in he stated that,"…… In my view, the law has not been static and the duty to do due
diligence in the designs of fraud requires the intending purchaser to do more than merely looking at the Certificate of Title but to investigate the validity of the Title. **The mischief of fraud and elements of fraud have overtime mutated to involve the Registrars of Titles. For instance, there are cases where Instrument numbers that are used to register proprietorship have been found to be none existent or Instruments that rightly belong to other properties e.g. for caveats**. This necessitates departure from what the position of the Courts in 1962, 52 years ago when the case of **De SOUZA (Supra)** was decided. I have found more instructive authority in a more recent decision by the Uganda superior Court, in the case of:- **SIR JOHN BAGEIRE Vs AUSI MATOVU C.A. NO. 7 OF 1996 (C.A.U.)**……"

If it be said that the National Social Security Fund was not sufficiently vigilant in guarding against the fraudulent title from Martin Kasekende and his cronies at the National Housing and Construction Corporation, as a means of depriving Yusuf Suuna, the Registered Private Mailo landlord of his property, though that fact is negatived by the findings, it must also be said that the mortgagees were quite as remiss in putting faith in a fictitious record when they could have discovered the fraud about to be practiced upon them by doing due diligence in the manner that has been laid down by the Uganda High Court in the case of **konda Zimula v**

Byarugaba & Anor (HCCS 66 of 2007) [2014] UGHCLD 68 (10 November 2014). The lenders to the National Social Security Fund cannot be heard to claim that they were not bound to make any inquiries of the true owner.

I have said that the **National Housing and Construction Corporation and the National Social Security Funds'** claim rests upon a spurious or fabricated paper, but this expression does not describe the true character of the instrument. **It was simply a forgery in every legal or moral aspect in which it can be considered. That crime is defined by the common law to be the fraudulent making of a writing to the prejudice of another's rights (4 Black. Com. 247)**, or the making malo animo of any written instrument for the purpose of fraud and deceit. **(2 East P.C. 852.)** The false making of an instrument which purports on its face to be good and valid for the purpose for which it was created, with the design to defraud. **(1 Leach, 366; Black's Law Dic. 508.)** The false making or material alteration, with intent to defraud, of any writing which, if genuine, might apparently be of legal efficacy or the foundation of a legal liability. **(2 Bish. Crim. Law, § 523.)** The fraudulent making of an instrument in writing to the prejudice of another's rights. **(People v. Cady, 6 Hill, 490; People v. Shall, 9 Cowen, 778; People v. Harrison, 8 Barb. 560; Harris v. People, 9 Barb. 664.)** The true character of the instrument which is the sole basis of the defendants' contention is well illustrated by the case of the **State v. Shurtliff, 18 Me. 368** ,In that case a party agreed with another to sell to him one acre of his farm, and the intended grantee procured a draft of a deed describing the one acre intended to be conveyed, and presented it to the grantor who examined it and found it correct. The execution of this deed was, however, delayed and the draft remained with the grantee, who afterwards fraudulently procured the draft of another deed which covered and described the grantor's whole farm, and presented it to the latter for execution as the deed before examined, and it was executed and delivered. The grantee was convicted of forgery, and upon a review of the case upon appeal the court said: "Forgery has been defined to be a false making, or making malo animo, of any written instrument for the purpose of fraud and deceit. **(2 Russ. 317, and authorities there cited.)** The evidence fully justifies the conclusion that the defendant falsely made and prepared the instrument set forth in the indictment, with the evil design of defrauding the party whose deed it purported to be. It is not necessary that the act should be done in whole or in part by the hand of the party charged. It is sufficient if he cause or procure it to be done. The instrument was false. It purported to be the solemn and voluntary act of the grantor, in making a conveyance, to which he had never assented. **The whole was done by the hand, or by the procurement, of Martin Kasekende and other directors of the National Housing and Construction Corporation and the Board members of the National Social Security Fund that was led by Leonard Mpuuma**. It does not lessen the turpitude of the offense that the party whom he sought to defraud was made in part his voluntary agent in effecting his purpose. If he had employed any other hand, he would have been responsible for the act. **The art and management has no tendency to mitigate the charge, and the opinion of the court is, that the crime of forgery has been committed.**

When the false making, with an evil design, is proved artful subterfuges in defense have been disregarded, of which many of the cases cited for the government are illustrations."

Neither can recording a forged deed transform it into a document with legal authority to establish a valid property interest, for it "does not change the legal rights of anyone" (Marden, 160 NY at 56). "The fact that a false and fabricated writing of this character is deposited in a public office for record, and is actually recorded, can add nothing to its legal efficacy. The recording statute applies to "genuine instruments and not to forged ones" **(id. at 56, citing Albany County Sav. Bank, 149 NY at 74)**

So that when the instrument under which the **Martin Kasekendes National Housing and Construction Corporation and Leonard Mpuumas National Social Security Fund** now claim was placed among the public records, it was nothing but a forgery. It was not only a forgery at common law, but a forgery by statute. **The term "forgery" includes now, as it always did, the false making of a written instrument, and under the PENAL CODE it is forgery to utter or put off as true**, with intent to defraud, a forged deed, knowing it to be forged. Placing the so-called deed in this case upon record, with intent to defraud, was an "uttering or putting off as true," within the meaning of the statute. **(Paige v. People, 3 Abb. Ct. App. Dec. 439.)** Moreover, a false certificate of an acknowledging officer to an instrument purporting to be a TITLE, that the same was acknowledged by a party thereto, is forgery under the Penal Code, **and while the absence of knowledge or a criminal intent on the part of the officer would absolve him from liability, yet that circumstance cannot, of course,** change the character of the instrument of which the certificate is an essential part, or make it any the less a forgery.

That the certificate attached to the paper in question was false, is not, and cannot be, denied. It is found that the party to whom the National Social Security Fund funders or bankers loaned money upon fictitious mortgages procured the officer to make the false certificate by some trick or artifice, and by the Penal Code one who directly or indirectly induces or procures another to commit a crime is a principal. **(People v. Fitzgerald, 156 N.Y. 253; People v. McKane, 143 N.Y. 455.)**

The fact that a false and fabricated writing of this character is deposited in a public office for record, and is actually recorded, can add nothing to its legal efficacy. The Recording Act applies to genuine instruments and not to forged ones. **(Albany Co. Savings Bank v. McCarty, 149 N.Y. 71.)** It may be that the actual record of such a paper may deceive the unwary, but that circumstance does not change the legal rights of any one. A bank may loan money upon the security of a pledge or mortgage of personal property in the possession of the thief who has stolen it, and the loan may be made in good faith on the honest belief that the thief who has the possession has the title; but this would not prevent the real owner from pursuing his property and taking it wherever he could find it. **(Knox v. Eden Musee Co., 148 N.Y. 441.)** It would not help the bank

in that case to allege, as the National Social Security Fund management in this case allege, that it was a bona fide purchaser. **It is legally impossible for anyone to become a bona fide purchaser of real estate, or a purchaser at all, from one who never had any title, and that is this case. It is equally impossible to construct an estoppel against the real owner upon a forged instrument, placed upon record without the authority of any one, and, of course, the paper in question was no more entitled to record upon the false certificate than if it contained no certificate whatever.** Void things are as no things

This fabricated writing and false record, it is said, has invested the National Social Security Fund, holding fictitious mortgages, with the character of bona fide purchasers of real estate, and so has the effect in law of divesting the **private Mailo landlord(Yusuf Suuna Kiweewa)** of the title to his land and transferring it to the **National Social Security Fund arising from the fraud done to it Martin Kasekendes National Housing Corporation**; or if this proposition should seem to be too drastic, then we are asked to hold that the private mailo landlord **(Yusuf Suuna and if dead his beneficiaries)** is estopped from raising any question with respect to the validity of the paper, since he was the involuntary victim of crime. It is said that since someone must suffer it is better that the private mailo landlord **should lose his private mailo land to the fraudulent ingenuity of Martin Kasekende, Yusuf Kagumire and Leonard Mpuuma among others** than that **the bank should lose its money.** I have stated at, perhaps, undue length some of the reasons that constrain me to reject the argument. **It has always been supposed that real property could not be the subject of larceny, but this is evidently a mistake, if it be true,** as **Martin Kasekende and others who think like** him claims, that the false papers which the judgment in this case has **declared void and set aside, are to be given such legal effect as to divest** the private mailo landlord of his property and convey it to the **National Social Security Fund and the National Housing and Construction Corporation**. In that case the process of stealing real estate, **if I may be permitted to use that expression, will be very simple and comparatively safe. All that will be necessary for the criminal to do in order to feloniously appropriate to his own use the real property of another,** is to fabricate **a freehold title over mailoland** that shall contain the signature of the true owner, genuine if possible, by any trick or artifice, but if not, then simulated, since that will be just as good. **The next step will be to attach to it a false certificate affirmed by the Ministry of Lands, Housing and Urban Development, and then file it in the clerk's office**. It will not be necessary that the true owner should ever see the paper or deliver it to anyone. **If the grantee named in this false paper should be able to find a bank or an individual willing to loan money on the faith of such a record as THE NATIONAL SOCIAL SECURITY FUND** did in this case, the theft will be complete, since the title of the true owner will be extinguished by the bona fide intentions of the deluded money lender, or the owner will be estopped by reason of the confidence which it is said may have been reposed in the record of a crime.

The proposition that a person, or a bank, engaged in loaning money, may, if ignorant of the real facts, **rely upon a falsehood placed upon record by criminal means, to the prejudice of the rights of the true owner of real estate, must open the door for the destruction of all titles, and make it much easier for the criminal to purloin real than personal property.** It is said that the false and forged freehold title done by **Martin Kasekende of the National Housing and Construction Corporation and Yusuf Kagumire, former Chief Registrar of Titles and the Business Representative of the Mitchell Cotts Limited and its subsidiaries as per his assurances given in the case of Peter Mulira vs Mitchell Cotts Limited (2002) (supra)** in this case was duly recorded, but surely this must be an inadvertence, since it is impossible to conceive that a writing, purporting to be a title, acknowledged or delivered, could be duly recorded. The act of the registrar in copying on his books a forged instrument, deposited with **him as part of a criminal scheme,** cannot very well be called duly recording a conveyance of land. **The failure to comply with provisions of the law meant that the Chief Registrar of Titles exercised power illegally with material irregularity, which rendered his actions on the title null and void.** It was held **Makula International Ltd. v. His Eminence Cardinal Nsubuga & A' nor [1982] HCB 11** that an illegality once brought to the attention of court cannot be condoned.

Apart from the above, it also found that by taking a decision affecting rights of the Private Mailo landlords right without according them opportunity to be heard the Chief Registrar of Titles exercised power improperly. This invariably violated the cardinal principle of natural justice as relates to a fair hearing, and that a party shall not be condemned unheard. It is settled that an administrative body/person acts improperly and or illegally where it/he exercises its/his power to decide a question without affording a party affected by the decision an opportunity to be heard, or where the procedure adopted in dealing with the dispute is contrary to principles of natural justice. **See: Re: Musinguzi Geoffrey and Kiruhura District Local Administration, HCT-05 – CV – MA – 193 – 2011 (unreported).** It is also the trite law that a decision reached by an administrative body/person which violates principles of natural justice shall not be left to stand. **See: See Sharp v. Welefield (1981) A.C 173** which was relied upon in **Re: Interdiction of Bukeni Fred Misc. Appl.No. 139 of 1991, per Musoke – Kibuuka J.**

Given the clarity of our law that a forged deed is void ab initio, and that it is a document without legal capacity to have any effect on ownership rights, the question remains whether a claim challenging a conveyance or encumbrance of real property based on such deed is subject to a time bar. **Our case law permits only one answer: a claim against a forged title is not subject to a statute of limitations defense.** As the Court held in Marden, a forged title is void, not merely voidable. **That legal status cannot be changed, regardless of how long it may take for the forgery to be uncovered**. As the Court made clear in **Riverside Syndicate, Inc v Munroe, a statute of limitations "does not make an agreement that was void at its inception valid by the mere passage of time" (10 NY3d 18, 24 [2008], citing Pacchiana v Pacchiana, 94 AD2d**

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721 [2d Dept 1983]). Consequently, the private mailolandlord may seek to vacate the title and the **National Social Security Funds's encumbrance upon the property**.

Indeed, this is the prevailing approach in other jurisdictions **(see e.g. Moore v Smith-Snagg, 793 So 2d 1000, 1001 [Fla Dist Ct App 5th Dist 2001]**["(o)f course, there is no statute of limitations in respect to the challenge of a forged deed, which is void ab initio"]; **see also Wright v Blocker, 198 So 88, 90-91 [Fla 1940])**. The high court of West Virginia, for example, has observed that "there is no statute of limitations regarding void deeds" **(MZRP, LLC v Huntington Realty Corp., 2011 W Va LEXIS 240, 2011 WL 12455342 [W Va 2011] [void tax deed])**, while the high court of Idaho held that "[b]ecause [a] lease agreement was void ab initio, it could be challenged at any time" **(Thompson v Ebbert, 160 P3d 754, 757 [Idaho 2007] [attempted lease void based on a lack of authority to lease only a portion of the property])**. From the above wisdom given by the higher courts, its very clear that Martin Kasekende and the people who think like him cannot use the statute of limitations as his defence in this fraud claim in which he has being held liable and its with this pedigree that I bring this case up for investigation by the Anti-Corruption Unit situated at the Ugandan Parliament so that finally we people who contribute to the National Social Security Fund can get our money (USD 8.000.000/-) they stole in 2003

AND SO THAT THE LANDLORDS WHO ARE THE FAMILY OF THE LATE YUSUF SUUNA KIWEEWA OMULANGILA OF KANSIIRI BUSIRO BUGANDA PROVINCE CAN BE GIVEN ADEQUATE COMPENSATION FOR THERE LAND AT LUBOWA AS WAS RULED BY THE SUPREME COURT IN THE CASE OF **Uganda National Roads Authority v Irumba & Anor (Constitutional Appeal No. 2 of 2014) [2015] UGSC 22 (29 October 2015)**

MARTIN KASEKENDE OF NATIONAL HOUSING SOLD AT USD 8,000,000/- ,LUBOWA LAND TO NSSF UGANDA.MARTIN KASEKENDE SHOULD EXPLAIN…….”.

True statements are treated as an exception for libel and defamation. The above statement was generated after I read a number of newspapers that had stories like the one in COMPLINANTS EXHIBIT NUMBER MK1.

COMPLAINANTS EXHIBIT MK 1

SOURCE.https://www.newvision.co.ug/new_vision/news/1263252/housing-refund-nssf-loan-land

Housing to refund NSSF loan with land

By Vision Reporter, Yunusu Abbey

Added 31st July 2003 03:00 AM

NATIONAL Housing and Construction corporation (NH&CC) is in advanced stages of swapping hundreds of acres of prime land in Kampala in lieu of repayment of a multi-million-dollar loan

By Yunusu Abbey

NATIONAL Housing and Construction corporation (NH&CC) is in advanced stages of swapping hundreds of acres of prime land in Kampala in lieu of repayment of a multi-million-dollar loan. Sources said NH&CC was exchanging its vast land at Lubowa and Namungoona for US$8m loan it obtained from the National Social Security Fund (NSSF).

The money was spent on the Crested Towers renovation, now nearing completion. The New Vision has learnt that the NH&CC land at Namungoona, off Hoima Road, is 130 acres while that at Lubowa on the Entebbe Road is about 250 acres. Martin Mpuuma, the NSSF managing director, could neither deny nor confirm the reports when contacted on Monday. It is still early to talk about such an issue. But even if it happens, it would be a good deal for the Fund and its contributors. The public will be informed of any developments, Mpuuma said.

A senior NH&CC official said the deal was in its final stages and had got the finance ministry blessing.

He said the transaction would only be binding after the parties have signed the transfer agreements and other relevant documents. Top officials from NSSF led by Mpuuma and the NH&CC general manager, Martin Kasekende have been engaged in a series of talks over the transaction, said a source. The deal is almost sealed now. All that remains is for NSSF to hire a property valuer and surveyor for the two sites, he said. But it was still unclear which of the two parties initiated the deal.

It’s important for the public to realize that I do not lie. These are facts that are drawn from the New Vision publication that was done online **31st July 2003 03:00 AM. The same story has been summarized on the source below as complainants exhibit number MK2**

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COMPLAINANTS EXHIBIT NUMBER MK2

Source: https://allafrica.com/stories/200308020008.html

Uganda: Housing to Refund NSSF Loan with Land

1 AUGUST 2003

New Vision (Kampala)

By Yunusu Abbey

NATIONAL Housing and Construction corporation (NHCC) is in advanced stages of swapping hundreds of acres of prime land in Kampala in lieu of repayment of a multi-million-dollar loan.

Sources said NH&CC was exchanging its vast land at Lubowa and Namungoona for US$8m loan it obtained from the National Social Security Fund (NSSF).

Indeed Martin Kasekende was the Managing director of the National Housing Corporation when the fraudulent land sale was done between the National Social Security Fund and the National Housing Corporation of Uganda. The other story that appeared in the new vision is this one below and all these facts are true. This has been put in the **COMPLAINANTS EXHIBIT MK3**.

COMPLAINANTS EXHIBIT MK3.

Source.https://www.newvision.co.ug/new_vision/news/1260780/usd8m-land-swap-nears

$8m Land-Swap Nears End

By Vision Reporter

Added 7th September 2003 03:00 AM

THE planned swapping of prime land in Kampala between National Housing and Construction Corporation (NHCC) and National Social Security Fund (NSSF), is in advanced stages.

By Yunusu Abbey

THE planned swapping of prime land in Kampala between National Housing and Construction Corporation (NHCC) and National Social Security Fund (NSSF), is in advanced stages. NHCC is exchanging the land in lieu of payment of an $8m loan it obtained from NSSF for the Crested Towers renovations. The project cost has since escalated to $20m. But NHCC officials defended the cost over-runs.

Presently, NSSF is holding the Crested Towers complex as security for the $8m. The project contractor, Roko Construction is demanding about $5m for certified work done. NHCC wants to borrow the $5m from Stanbic Bank in Kampala to pay Roko. Fresh reports said the 250 acres, which NHCC owns at Lubowa on Entebbe Road, has been valued at about sh9b.

NHCCs 150 acres at Namungoona, off Hoima Road, is estimated to be worth sh3.7b. But NSSF is only taking about 130 acres. Under the impending deal, the land at Lubowa is being offered to NSSF at sh36m per acre while that at Namungoona has been valued at sh25m per acre, said a source. The New Vision has learnt that NSSF has contracted a local firm, Byokusheka Company Surveyors, to verify the acreage. Byokusheka is working jointly with an NSSF internal technical team, he said.

Leonard Mpuuma (left), the NSSF managing director, confirmed the reports yesterday. He said NSSF had no problem with the amounts quoted per acreage, but wants an independent surveyor to verify them.

Mpuuma, who has initiated several development ventures since taking over as NSSF boss, said the quoted figures were what the surveyors who valued the land came up with. Those are the going prices for land in such areas (Lubowa and Namungoona). We dont dispute the figures at all. We only want the technical team to verify them so that we finalize the deal, Mpuuma said. He said the prices have been quoted in shillings per acre, but will eventually be converted into US dollars.

Ends

Infact there is an investigation that was never concluded in which martin Kasekende was involved. We need to get a recap of these events. This investigation was conducted by the **Present Inspector General of Police, Martin Okoth Ochola,** then he was called The CID deputy director, and this what the gentlemen looks like. My Lord I humbly pray that he is given **a sub ponea** to come and explain where this matter ended so that the fraud can be brought to the fraudster Martin Kasekende who committed it. This is supported by the story subsequent. ***A* subpoena or witness summons is a writ issued by a government agency, most often a court, to compel testimony by a witness or production of evidence under a penalty for failure.** There are two common types of subpoenas: **subpoena ad testificandum** orders a person to testify before the ordering authority or face punishment. The subpoena can also request the testimony to be given by phone or in person.

subpoena duces tecum orders a person or organization to bring physical evidence before the ordering authority or face punishment. This is often used for requests to mail copies of documents to requesting party or directly to court. The term subpoena is from the Middle English subpoena and the Latin phrase subpoena meaning "under penalty**".(*See, e.g.*, 18 U.S.C. § 1429; 18 U.S.C. § 3333(c)(1); 18 U.S.C. § 1968(c); and 28 U.S.C. § 1365.)** The subpoena has its source in English common law and it is now used almost with universal application throughout the English common law world. **John Waltham, Bishop of Salisbury,** is said to have created the **writ of subpoena in the reign of Richard I(Curtis, John (1860). *A* School and College History of England. Simpkin, Marshall and Co. p. 139. Retrieved 1 May 2017.)** However, for civil proceedings in England and Wales, it is now described as a witness summons, as part of reforms to replace Latin terms with Plain English understandable to the layman.

In the case before us there is an article that expresses the IGPs role in the case of the NSSF Lands sale fraud in which Martin Kasekende here present was involved. Below we need to put the **picture of The CID deputy director, Okoth Ochola**.

The CID deputy director, Okoth Ochola.

The article that was given in the press is here below to that points the Inspector General of Police to the case of the fraudulent land sales to National Social Security Fund that was done under the guidance of **Martin Kasekende then Chief Executive Officer of the National Housing corporation. Here we go in COMPLIANANTS EXHIBIT MK 4**

COMPLAINANTS EXHIBIT MK4

https://www.newvision.co.ug/new_vision/news/1263393/housing-chiefs-investigation

Top Housing Chiefs Under Investigation

By Vision Reporter

Added 29th July 2003 03:00 AM

TOP National Housing and Construction Corporation (NH&CC) officials are still under Police probe over alleged mismanagement and financial impropriety.

By Yunusu Abbey

TOP National Housing and Construction Corporation (NH&CC) officials are still under Police probe over alleged mismanagement and financial impropriety. The CID deputy director, Okoth Ochola, told The New Vision recently that they were yet to finalize the inquiry. We have already interviewed almost all those involved in the allegations, including officials in Lands. We shall soon send the file to the Director of Public Prosecutions for advice, Ochola said.

But Martin Kasekende, the NH&CC general manager, said the CID conducted the investigations sometime back and seemed to have closed the probe. We gave them (CID) all the files and our side of the story. But I am surprised the same allegations are coming up again, Kasekende said. Kasekende said NH&CC management had never seen Sseezi Cheeye report apart from hearing it as rumours. In all fairness, at least we would have been availed that report, he said.

Cheeye is the economic affairs director in the Internal Security Organization (ISO). Ochola, however, said the CID had not yet closed the case file contrary to some reports. We just can't close a file like that. It is the DPP to advise us, he said. The CID probe follows previous investigations, which Cheeye; conducted into the state-owned NH&CC. Dated September 2002 and addressed to President Yoweri Museveni, Cheeye âs 65-page report spotlighted Kasekende, Peters Musoke, corporation secretary and Aloysius Lubowa, the technical manager. Others are Ham Tumuhairwe, housing manager and Peninah Tibaruha, the chief internal auditor, who resigned early this year.

Apart from Kasekende, all the named officials were unwilling to comment on the report, saying they have never seen or read it. The implicated top NH&CC managers should be suspended, charged and if found guilty, be imprisoned because of their involvement in the malpractices investigated, the Cheeye report said. Cheeye, who conducted the investigations following Museveni June 13, 2002 directive, said NH&CC lost billions of shillings in shoddy deals. He said the transactions included the Naalya Housing project, the Lubowa land purchase, evaluation of flats for sale under the Condominium Law and others.

He said at Naalya, the construction cost was inflated from sh5,740,000 to sh16,080,150 per unit, contrary to Bwik Consultants recommendation. He also cited the acquisition of 108 acres of land from Pan World Insurance in which NH&CC lost about sh960m and another $319,017 paid to Eco-Shelter & Environmental Consultants, for work not done, among others. The report said NHCC officials also illegally acquired 17 prime government properties such as plot 74,76 & 78 Prince Charles Drive, Kololo.

It adds that after the acquisition, management sold the properties and failed to remit the money to the consolidated account, contrary to government regulations. The money involved is said to be more than sh2b. The Government should force NH&CC to transfer all the money it got from sale and rent from illegal transactions on Government properties, to the Consolidated account as suggested by the Auditor General, adds the report.

The report also proposed that all the prime properties, which NH&CC illegally acquired, should be vested back into Uganda Land Commission and be reserved for future civil servants. Musoke, the corporation secretary, strongly contested Cheeyes findings and criticized The New Vision for publishing what he called negative stories about NH&CC.

An angry Musoke said the paper seemed to have been bribed to carry out a smear campaign against NH&CC. He cited an April 16 spotlight story on the Crested Towers renovation cost which has since escalated to US$20m.

On June 6, Byabakama-Mugenyi, the Deputy DPP, wrote to the PS lands ministry permanent secretary about the alleged illegal transfer of government pool houses on Plot 35-45 Kanjokya Street by NH&CC officials. The CID has been carrying out investigations on the above allegations. The file was submitted to the DPP for perusal and advice, Byabakama said. Upon careful reading of the file, we realized that a decision cannot be made without the documents enumerated in the letter dated March 13, 2003, from CID, he said.

Byabakama said, This is therefore to request the said documents be availed to the CID to enable us take a decision based on all facts. Cheeye said NH&CC was involved in forgery of land mapping and statutory instruments. He said he had obtained

the original mapping, which shows that NH&CC was given part of land on Kanjokya Street marked 35-99. Intex Building & Civil Engineering Contractors Ltd. built the houses at a cost of sh3,216,030,130. The work was inflated by a whole sh10,340,150, meaning that a whole sh2,068,030,000 in inflated cost was embezzled on a single deal of building 200 units only, Cheeye added.

He criticized NH&CC for buying a huge tract of swamp at Naalya, which accounts for 35% of the land there. Management is now justifying the purchase by claiming it wanted it for greenery, and for drainage purpose. But surely, how can a whole 35% of the land be for sewage and drainage? Cheeye asked. It said on December 16, 2000, NH&CC contracted Eco-Shelter to carry out consultancy work, which involved the sale of 1,469 flats under the Condominium Law. The contract sum was US$355,522. Cheeye said the officials should pay the $355,522.

Ends

When people do fraud they think it's over after sometime but the good thing is that the statute of limitations does not apply to frauds like this that are done **in factum** so Martin Kasekende cannot use **THE STATUTE OF LIMITATIONS AS A TOOL TO LEGALISE THE FRAUD THAT WE ARE SEEING IN THIS STORY.**

"If fraud is 'in factum,' such as a forged deed or a situation analogous to forgery, the deed is void ab initio and will not support subsequent title in any person"]; First Nat. Bank in Albuquerque v Enriquez, 96 NM 714, 716 [1981] ["a forged deed is a void deed and transfers no interest"]; **Williams v Warren, 214 Ark 506, 511 [1949]** ["No one can claim that an estate in land should be divested by forgery"]).It is similarly true that no property shall be encumbered, including by a mortgagee, in reliance on a forged deed **(see Marden, 160 NY at 51; see also Cruz v Cruz, 37 AD3d 754, 754 [2d Dept 2007][**"A deed based on forgery or obtained by false pretenses is void ab initio, and a mortgage based on such a deed is likewise invalid"]; **Jiles v Archer, 116 AD3d 664, 666 [2d Dept 2014]** ["If a document purportedly conveying a property interest is void, it conveys nothing, and a subsequent bona fide purchaser or bona fide encumbrancer for value receives nothing"]; **2-15 Warren's Weed New York Real Property § 15.09** ["If the conveyance is void, the purchaser or encumbrancer will not enjoy any of the rights of a bona fide purchaser"]; **43A NY Jur 2d Deeds § 218** ["a forged deed is null and void, and conveys nothing, and a purchaser or mortgagee from the grantee, even for value and without notice of the forgery, will not be protected"]). Neither can recording a forged deed transform it into a document with legal authority to establish a valid property interest, for it "does not change the legal rights of anyone" **(Marden, 160 NY at 56).** "The fact that a false and fabricated writing of this character is deposited in a public office for record, and is actually recorded, can add nothing to its legal efficacy. The recording statute applies to "genuine instruments and not to forged ones" **(id. at 56, citing Albany County Sav. Bank, 149 NY at 74. Given the clarity of our law that a forged deed is void ab initio, and that it is a document without legal capacity to have any effect on ownership rights, the question remains whether a claim challenging a conveyance or encumbrance of real property based on such deed is subject to a time bar.**

Our case law permits only one answer: a claim against a forged deed is not subject to a statute of limitations defense. Indeed, this is the prevailing approach in other jurisdictions (see e.g. Moore v Smith-Snagg, 793 So 2d 1000, 1001 [Fla Dist Ct App 5th Dist 2001]["(o)f course, there is no statute of limitations in respect to the challenge of a forged deed, which is void ab initio"]; see also Wright v Blocker, 198 So 88, 90-91 [Fla 1940]). The high court of West Virginia, for example, has observed that "there is no statute of limitations regarding void deeds" (MZRP, LLC v Huntington Realty Corp., 2011 W Va LEXIS 240, 2011 WL 12455342 [W Va 2011] [void tax deed]), while the high court of Idaho held that "[b]ecause [a] lease agreement was void ab initio, it could be challenged at any time" (Thompson v Ebbert, 160 P3d 754, 757 [Idaho 2007] [attempted lease void based on a lack of authority to lease only a portion of the property]). So in the instant case Martin Kasekende and his group that did the Lubowa Land fraud you are about see cannot use the Statute of Limitations as there cloak and shield to protect them against the fraudulent exposures that they are part of.

The Land at Lubowa over which Martin Kasekende of the National Housing and Urban Development then CEO and Yusuf Kagumire, former Chief Registrar of Titles Uganda, Partner at Katera and Kagumire (Formerly Hunter and Greig Advocates) now H AND G Advocates and the business representative of all businesses that are done by Mitchell Cotts PLC and its subsidiaries as stated in **Peter Mulira v Mitchel Cotts Ltd (Civil Appeal No. 15 of 2002) [2004] UGCA 8 (3 April 2004) belongs to Yusufu Suuna Kiwewa Omulangila and not Uganda Company Limited or Mitchell Cotts Limited.**

Ssuna has a title to a mailo interest because he was issued with a Final Mailo Certificate No 18570 on June 6, 1906 and his interest is traceable to the 1900 Buganda agreement. **Four of Ssuna's eight square were surveyed and recorded on Cadastral "Cartridge" Map Sheets 71121 and 22 and 7131 and 3 at the department of Mapping and Surveys, Entebbe, which reveal the following details: Place: Bunamwaya, Lweza., Lubowa, Naziba, Nakukuba and Mutungo. Final Certificate: 18570, Provisional Certificate: 6726, Final Certificate Area: 4 Square Miles, Owner: Yusufu Ssuna Omulangira and Date: 6th June 1906.** His ownership is also supported by **Chapter 228 of the laws of Uganda (Land in Buganda (Provisional Certificates) Act 1922) effect number 1 that states that."……. An Act relating to land in Buganda (Provisional Certificates).**

1. Copies of provisional certificates to be filed.

Copies of provisional certificates of claims issued under the Uganda Agreement, 1900, to land owners in Buganda shall be filed in the department of lands and surveys of the Government, and those copies shall, at such times as the commissioner for lands and surveys may direct, be open to be searched and examined by any applicant, and certified copies or extracts therefrom may be obtained on application to the commissioner for lands and surveys upon payment of the prescribed fee……." And the provisional certificate number for **Yusuf Suuna is 6725** of Uganda. The above information was extracted from Entebbe by Sarah Basangwa Kulatta that applies to **Chapter 228 of the laws of Uganda (Land in Buganda (Provisional Certificates) Act 1922) and the evidence that supports this statement is below and I am tendering it in as COMPLAINANTS EXHIBIT MK8** WHICH SHOWS THAT THE RECORDS THAT APPLY TO THE SAID LAND WERE EXTRACTED **BY SARAH BASANGWA KULATTA** , THEN COMMISIONER LAND ADMNISTRATION AND REGISTRATION AT THE MINISTRY OF LANDS,HOUSING AND URBAN DEVELOPMENT THAT I HAVE PUT BELOW.

The mysterious removal of the microfilm camera from the map office, Entebbe, has led to numerous frauds involving mailo land because it is now difficult to prove the origin of claims especially since records of instruments of transactions are also not accessible to the public. My Lord all this is evidence of fraud that I put over my facebook blog.

These records have been removed from the lands office **by Sarah Basangwa Kulatta** vides the documents below. The information shown below gave the complainants here leeway to engage in the land title forgery fraud that I have unearthed that you are now privy too in which they are involved. **This evidence also shows the Anti-Corruption Unit that the United States Dollars Twenty One Million Lands Management information system that was procured to computerize the Land Records for the Government of Uganda is both a misrepresentation and fraud and needs to be investigated so that the people like Sarah Kulatta, Robert Nyombi, Robert Opio, Jasper Kakooza among others who are behind these frauds can be brought to book.**

I would also be helpful on this investigation subject to terms, conditions and warranties that we will agree after you have consummated this report.

COMPLAINANTS EXHIBIT MK5.

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INTERNAL MEMO

To: C/S&M

Joseph

C.c. PS

From: Ag.DLM/CLR

Date: 8/5/2014

This is to require you again to complete the Arrangement. You need to have all the films sent by the given deadline.

RE: **RETURN OF MICROFILM RECORDS**

You recall that a decision was made at the Heads of Departments meeting that you return all the microfilm records. You recall that the reason behind it was that Entebbe Mapping and Surveys was giving out information to the public which was misleading. We have discussed this on many occasions.

15/04/14

A case in point is Busiro Block 453 Plot 32 where you gave out information to the CIID/Commandant Land Protection Police Unit. Based on your report, it was aired on the UBC and NTV Medias that all the titles which are coming out of this land are forged and the police stated that they are basing on your report. As the author of the report I should have hoped that you would have corrected the police but so far I have not seen any response from you.

As Land Registration Department we have impressed it upon you that it is best if you are giving out microfilm information it should be complete to the present. For one reason or another you have not sent all the microfilm records.

Can you please arrange and have the microfilm records sent to Land Registration by Friday, 16th May 2014.

Sarah Kulata Basangwa
Ag.DLM/CLR

SURVEYS & MAPPING DEPARTMENT
RECEIVED
15 MAY 2014
P. O. BOX 1, ENTEBBE

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INTENAL MEMO

TO: AG. DLM

C.C MINISTER
C.C ALL MINISTERS OF STATE
C.C PS

FROM: CSM

DATE: 16TH MAY 2014

RE: TRANSFER OF MICROFILM RECORDS FROM ENTEBBE LAND OFFICE TO KAMPALA HEADQUARTERS

Reference is made to your Internal Memo dated 18th November 2013, concerning the above captioned subject.

As requested please receive some of the Microfilm records which have been organized and ready for you to receive.

Microfilm records which have been sent, cover the following counties:

County	Block Name	Block Numbers	
Kyadondo	Kyadondo	27-37	}
Kyadondo	Kyadondo	249-271	}
Kyadondo	Kyadondo	265	} 6 Films
Kyadondo	Kyadondo	244	}
Kyadondo	Kyadondo	215-221	}
Kyadondo	Kyadondo	60-67	}
Busiro	Busiro	553-604	}
Busiro	Busiro	514-552	}
Busiro	Busiro	341-377	}
Busiro	Busiro	106-144	} 7 Films
Busiro	Busiro	314, 474, 476	}
Busiro	Busiro	412-466	}
Busiro	Busiro	159-194	}
Singo	Singo	1-30	}
Singo	Singo	544-577	}
Singo	Singo	472-503	} 6 Films
Singo	Singo	31-60	}
Singo	Singo	107	}

Singo	Singo	108-123 }	
County	**Block Name**	**Block Numbers**	
Bulemezi	Bulemezi	875-993 }	
Bulemezi	Bulemezi	654-706 }	
Bulemezi	Bulemezi	215-380 & 434-691 }	5 Films
Bulemezi	Bulemezi	991-1025 & 133-223}	
Bulemezi	Bulemezi	204-232 }	
Singo	Singo	629-739}	
Singo	Singo	170-189}	
Singo	Singo	303-328}	5 Films
Singo	Singo	615-650}	
Singo	Singo	367-414}	
Bulemezi	Bulemezi	297-316}	
Bulemezi	Bulemezi	741-821}	
Bulemezi	Bulemezi	70-88 }	
Bulemezi	Bulemezi	668-739}	7 Films
Bulemezi	Bulemezi	233-249}	
Bulemezi	Bulemezi	706-943}	
Bulemezi	Bulemezi	180-203}	
Kyadondo	Kyadondo	118-130}	
Kyadondo	Kyadondo	154-193}	
Kyadondo	Kyadondo	82-86 }	4 Films
Kyadondo	Kyadondo	101-117}	
Busiro	Busiro	86-101 }	
Busiro	Busiro	195-240}	4 Films
Busiro	Busiro	468-513}	
Busiro	Busiro	269-279}	
Singo	Singo	504-524}	
Singo	Singo	269-302}	
Singo	Singo	449-451}	4 Films
Singo	Singo	- -749}	
Bulemezi	Bulemezi	632-788}	
Bulemezi	Bulemezi	916-990}	
Bulemezi	Bulemezi	2-12 }	5 Films
Bulemezi	Bulemezi	32-53 }	
Bulemezi	Bulemezi	297-316}	
Agreements and Transfers		}	2 Films
Total Number of Films			**55 Films**

Please note that the Blocks were based on Counties and the Microfilm records which have been sent are of the Counties on Blocks.

I have also sent you Mr. Dan Mukiibi (Lithographer) to assist you to set-up a mini Laboratory for storing the films. There is need to make some back-ups and to procure a microfilm reader.

Please acknowledge receipt of the films.

M.N. Kajumbula
COMMISSIONER, SURVEYS AND MAPPING

My Lord, the above letters WERE authored by the chief custodian of all titles of land well versed with the issues pertaining to the tenure and ownership of any given land in Uganda, in my view, effectually and authoritatively should put to rest any question on the tenure and ownership of the suit land. **The confiscation of the above information gave leeway to the making of titles in Uganda that have no correlation with the original land records and its after such fraud was done that ,Martin Kasekende and Yusuf Kagumire in contrivance with Leonard Mpuuma were able to generate the forged Lubowa freehold title over Mailo land that I Talk about.**

The mysterious removal of the microfilm camera from the map office, Entebbe, has led to numerous frauds involving mailo land because it is now difficult to prove the origin of claims especially since records of instruments of transactions are also not accessible to the public. It is also wrong for the commissioner to dismiss microfilm records as irrelevant to the present status of the land. Microfilms are important adjuncts to our system of land administration because they provide the root and history of every title to land and these records are supported by **effect 46 of the Registration of Titles Act, Cap 230**.

After the above records had been confiscated by Sarah Basangwa Kulatta as seen above, then it gave leeway for the Buganda Land Board people in connivance with the Ministry of Lands to forge titles like we will see they did for the LAND AT LUBOWA. **The land at Lubowa is owned by Yusuf Suuna Kiwewa and this is proved by an investigation that was triggered through the Internal Security Organisation of the instruction of His Excellency President Yoweri Kagutta Museveni and the intel is below in COMPLIANANTS EXHIBIT MK 6.**

The information below was generated by ISO AND ESO on the directives of His Excellency the President of Uganda, Yoweri Kagutta Museveni and I will want you to become privy to it so that you can know who the mailo owner is. At the end of the report is the expression about the Mitchell Cotts Subsidiary ,Uganda Company Holdings Limited and the Uganda Company Limited and it's this that will prove to you that the freehold title that the National Social Security Fund presently holds as no place in the realm of legality. So here we go.

COMPLAINANTS EXHIBIT MK 6.

OFFICE OF THE
SENIOR PRESIDENTIAL ADVISOR/COORDINATOR
INTERNAL AND EXTERNAL SECURITY ORGANISATIONS

THE REPUBLIC OF UGANDA

President's Office
P. O. Box 36764,
Tel: 0414 - 237378
Fax: 0414 - 344483
E-mail: intelligencecootdcentre@yahoo.co.u
Kampala, UGANDA

(17)

Our Ref:

Your Ref:

(18)

08/11/2011.

THE COMMISSIONER LANDS AND SURVEY.
ENTEBBE, UGANDA.

Sen Photographer
Process urgently
21/11/11

Dear Sir/Madam.

RE: ESTATE OF YUSUFU SSUUNA KIWEEWA AND KASALINA NKINZI.

Reference is made to the above Estate.

We are kindly requesting for all the detailed information concerning the said Estate for further ness of our investigations.

Your response will be highly appreciated.

Yours' faithfully

Samuel Wasswa-*psc (u)*
Brigadier
Office of the Coordinator ISO & ESO

OFFICE OF THE COORDINATOR * ISO and ESO *

SURVEY & MAPPING DEPARTMENT
RECEIVED
17 NOV 2011

RESPONSE FROM THE MINISTRY OF LANDS TO THE ABOVE LETTER IS BELOW

E-mail: mlhud@mlhud.go.ug
Fax: 230891
Telephone: General: 342931/3
Hon.Minister: Direct:253871
Hon.Minister of State (Lands): 231020
Hon. Minister of State (Housing): 349265
Hon. Minister of State (Urban Development):
Permanent Secretary: 230879
Under Secretary: 236359

THE REPUBLIC OF UGANDA

MINISTRY OF LANDS
HOUSING AND URBAN
DEVELOPMENT
P.O. BOX 7096
KAMPALA - UGANDA

(18)

In any correspondence on
this subject please quote
No LAD 13/14/01

(14)

25th November 2011

The Office of the Coordinator ISO and ESO
President's Office
P.O. Box 36764
KAMPALA

RE: REPORT ON KYADONDO BLOCKS 265 AND 269

A thorough search has been made on both Cadastral "Cartridge" Map Sheets and Microfilm as per available records on Kyadondo Block 265 and 269 at Bunamwaya, Lweza, Lubowa, Naziba, Nakukuba and Mutungo, and the findings are that at the time of taking these records, records are as follows:

1. Cadastral "Cartridge" Map Sheets 71/1/21 and 22 and 71/3/1 and 3
   Kyadondo Block 265 and 269
   Place: Bunamwaya, Lweza, Lubowa, Naziba, Nakukuba and Mutungo-Kyadondo-Wakiso
   F.C.: 18570
   P.C.: 6726
   F.C.A.: 4 Sq. Miles
   Owner: Yusuf Suna Kiwewa Omulangira
   Date: 6th June 1906

ii. Kyadondo Block 265 Marked PIN 6
   Place: Bunamwaya Kyadondo Wakiso Mengo
   F.C.: 18570
   P.C.: 6726
   F.C.A.: 2 Sq. Miles 592.27 Acres
   Owner: Yusuf Suna Kiwewa Omulangira
   Date: 6th June 1906

iii. Kyadondo Block 265 Marked PIN 6B
   Place: Nfufu-Bunamwaya-Kyadondo-Wakiso-Mengo
   F.C.: 17007
   P.C.: 6726
   F.C.A.: 10.70 Acres
   Owner: Leased to Gardhas Bargha
   Date: -

20
19

2. Microfilm Record:

Kyadondo Block	265
Place	Nfufu-Bunamwaya-Kyadondo-Wakiso-Mengo
F.C.	17007
P.C.	6726
M.R.V.	220
Fol	11
Instrument No.	-
Area	10.0 Acres
Owner	Yusuf Suna Kiwewa Omulangira
Date	12th October 1922

ii.

Kyadondo Block	265
Place	Bunamwaya-Kyadondo-Wakiso-Mengo
F.C.	18570
P.C.	6726
MRV	273
Fol.	15
Instrument No.	-
Area	1,942.27 Acres
Owner	Yusuf Suna Kiwewa Omulangira
Date	8th February 1924

Cadastral "Cartridge" Map Sheets 71/1/21 and 22 and 71/3/1 and 2

Kyadondo Block	269 Marked PIN 4
Place	Nakukuba and Mutungo-Kyadondo-Wakiso
Grant No.	G 9854
Grant Area	843.6 Acres
Granted to	Capt. Hill
Date	-

Kyadondo Block	269 Marked PIN 6
Place	Lweza, Lubowa and Naziba
Grant No.	G 8843
Grant Area	708.8 Acres
Granted to	Ormsby
Date	-

Kyadondo Block	265 Marked PIN 6A
Place	Bunamwaya-Kyadondo-Wakiso-Mengo
Grant No.	G 21584
Grant Area	10.83 Acres
Granted to	N.A.C.
Date	-

Kyadondo Block 269 Marked PIN 7
Place Kigobawonga-Kyadondo-Wakiso-Mengo
Grant No. G 21584
Grant Area 7.0 Acres
Granted to N.A.C.
Date -

Kyadondo Block 269 Marked PIN 8
Place Naziba-Kyadondo-Wakiso-Mengo
Grant No. G 9551
Grant Area 14.8 Acres
Granted to W.F.M. Rubaga
Date -

Kyadondo Block 269 Marked PIN 9
Place Kikubankwata-Kyadondo-Wakiso-Mengo
Grant No. G 21584
Grant Area 10.0 Acres
Granted to N.A.C.
Date -

Microfilm Record:
Kyadondo Block 269
Place Lweza-Kyadondo-Wakiso-Mengo
Grant No. G 8843
F.R. Vol 33
Fol 12
Instrument No. 16149
Grant Area 12.0 Acres
Granted to John James Wills Lord Bishop of Uganda of Bishop's House, Kampala Uganda, 2 Folio 16 of the Freehold Register
Date 20th October 1931

Ownership continues:
Under Instrument 25230 dated 14th February 1934, Proprietor The Church Missionary Trust Association Limited of the Church Missionary House, Salisbury Square London E.C.A. England.
"The Church Missionary Trust Association" was cancelled.
Proprietor:- Under Instrument 69908 dated 17th May 1946 K.M. Trowell M.B.F. wife of Hubert Carey Trowell M.D.F.P.C. of Uganda Medical Department. This was also cancelled.

Proprietor:- Under Instrument 139116 dated 12th December 1957, Alfred Henry Campbell and Florence Evelyn Campbell, both of P.O. Box 16 Kampala.

(22)

(21)

F.C.
P.C.
Grant No. G.9551
Granted Area 14.8 Acres
Grantee W.F.M. Rubaga
Map dated 1911

Microfilm Record:
Kyadondo Block 269
Place Lubowa Estate-Kyadondo-Wakiso-Mengo
F.C.
P.C.
Grant No. G. 9854 and G.8843
MRV 82
Fol. 1
Instrument 139274
Granted Area 1,834.143 Acres
Grantee Capt. Hill and Ormsby
Registered in: The Uganda Company Limited 13, Road Lane, London E.C. 3 England and P.O. Box 1 Kampala
Dated 25th January 1953

Under Instrument No.147734 less the six plots Marked 4,652 Acres delinated and edged red on the said plan Marked "B" hereto annexed transferred to the Uganda Company "African" Ltd and Registered in Volume 88 Fol. 24 of Freehold on 10th August 1960. It is not indicated how the 4,652 Acres were registered in freehold register volume.

The Cadastral "Cartridge" Map Sheets do not reflect who gave the grants, but since the original Customary Registered Proprietor was Yusufu Suna Kiwewa Omulangira, he is the likely Proprietor to have been the Grantor or his Successor or Successors.

According to the above mentioned records, the two portions of land were granted to Capt. Hill under Grant No. 9854, and Ormsby under Grant No. G.8843.

The records available do not reflect whether the Uganda Company Limited, was the same as Capt. Hill and Ormsby, to had registered these two pieces of land in their names, as grants were not to be sold, leased or mortgaged or otherwise, other than the conditions agreed upon by both the Grantor and the Grantee per every piece of land granted.

As most of these grants were granted before 1911, as per Map Sheet records, and the Maximum period was 99 years, this indicated that these grants expired, and if the grants were not renewed, or granted to someone else, then the land reverted to the original Customary Registered Proprietor or his Successor or Successors.

Cadastral "Cartridge" Map Sheet 70/1/8
Singo Block

(22)

Kyadondo Block 269 Grant Nos. G 9854 and G 8843
Place Lubowa Estate
Grant Nos. G 9854 and G 8843
M.R. Vol. 82
Fol 1
Instrument No. 139274
Area 1,834.143 Acres
Registered in:- The Uganda Company Limited 13, Road Lane, London E.C.3 England and P.O. Box 1 Kampala
Date 25th January 1958

(23)

Under Instrument No. 147734, Less the six plots marked 4.652 Acres delineated and edged red on the said plan marked "B" hereto annexed transferred to the Uganda Company "Africa" Ltd, and Registered in Volume 88 Fol. 24 of Freehold on 10th August 1960. It is not indicated how the 4.652 Acres were registered in Freehold Register Volume.

After the transfer to Uganda Company "Africa" Ltd in 1960 no other transaction took place.

It is not indicated on the Cadastral "Cartridge" Map Sheets, who gave the grants, but since the Registered Proprietor was Yusufu Suna Kiwewa Omulangira, is likely to have been the one or his Successor or Successors who gave these grants.

Please find herewith attached copies of the available records.

The above was the ownership from nineteen zero six to nineteen sixty. After microfilming and archiving, transactions continued to be registered on this land. I cannot guarantee that the ownership is still the same.

Therefore, I advise you to search the Titles Register for the correct ownership and the history of any other transaction that could have taken place.

M.N. Kajumbula
For: PERMANENT SECRETARY

My Lord you will realize that the following information was obtained from the Ministry of Lands on a Presidential directive and when you look at the records that were confiscated by Sarah Basangwa Kulatta above; the details of this land are included under Block 269 Kyadondo and its part of the records. **The above information is also supported by Chapter 228 of the laws of Uganda (Land in Buganda (Provisional Certificates) Act 1922).** The computerized information system on which the Ugandan Government has just spent money that I showed you above does not make sense because it does not comply with **effect 68 of the Registration OF Titles Act, Cap 230** that states that,

> **68. History of various dealings affecting land to be preserved.**
>
> Such references shall be noted in the Register Book and on instruments filed hereunder as will allow the title to be traced either downwards from or upwards to the original certificate of title; but it shall not be necessary in any certified copy of any grant, certificate or instrument to insert such references; and every such copy shall be deemed complete, notwithstanding the omission of such references.

In compliance with the duties of the directors of the National Housing and Construction Corporation, Martin **Kasekende was obliged to do the above due diligence to find out the true owners of the land in question and in breach of his duties he did not**. When asked for proof this is what they had to say. I have attached it as **accused Complainants number MK7 but it does not save them.**

COMPLIANANTS EEXHIBIT NUMBER MK7

NATIONAL HOUSING

CON/NHC/12B
November 11, 2014

The Special Presidential Assistant/
CV. Vice Chairman Presidential
Land Task Force on Land Matters
Embassy House
Kampala

Attention: Haji Edirisa Ssenduga

Dear Sir,

LAND DISPUTE ON BLOCK 265 AND 269 AT LUBOWA, MAKINDYE, SABAGABO, WAKISO DISTRICT

Reference is made to your letter dated October 28, 2014 on the above subject wherein your office requested for information with respect to National Housing and Construction Company Limited's legal ownership of the above mentioned land.

Please be advised that NHCC is the Registered Proprietor of 87 Acres of land at Lubowa, having purchased the same from M/s Uganda Company Holdings Limited. Please be further advised that NHCC owned land next to the current Quality Shopping village that has since been developed with several housing units, each having separate title deed and sold off to several individuals/entities, including NSSF.

NHCC acquired legal ownership of the said properties without notice of any adverse claim by the said Administrators of the Estate of the Late Yusuf Suuna Kiweewa, having so satisfied itself with the records in the Ministry of Lands Registry.

In the circumstances, the Commissioner Land Registration should be in position to clarify on issue of Freehold certificate of title overlapping an already existing title. NHCC therefore has valid title to the land it currently owns having purchased the same without notice of any adverse claim.

Enclosed herewith, please find copies of the purchase agreements and copies of title duly transferred into NHCC's names for your information.

Yours faithfully

Henry Balwanyi Magino
COMPANY SECRETARY
Enclosed/
...ew

National Housing and Construction Company Limited
Plot 5, 7th STREET, INDUSTRIAL AREA
P.O. BOX 659, KAMPALA, UGANDA
PHONE +256 41 43 30 002
FAX +256 41 42 58 708
EMAIL info@nhcc.co.ug, sales@nhcc.co.ug
WEBSITE www.nhcc.co.ug

This does not account for proper due diligence. The learned **Author, L. VOUMARD Q.C. in SALE OF LAND IN VICTORIA, 2nd Edition page 402** stated:

"……The duty of a purchaser or a mortgagee to investigate the Title is not a duty owing to the holder or the possible holder of a latent Title or security. It is a merely the course which a man dealing bona fide is proper and usual manner for his own interest ought by himself or his solicitor to follow that course the omission of it may be a thing requiring to account for or explained. It may be evidence of a design inconsistent with what a bona fide dealing to avoid knowledge of the true state of Title... a purchaser who knows that the property purchased is in occupation of some person other than the Vendor is affected with constructive notice of the right of the occupier but if he registers a conveyance without making further inquiries he will lose the benefit of registration only if in the circumstances of the case abstention from inquiry evidences a want of good faith……."

In my view the above statement is the correct legal position which must be applied in each case and the decision should be made based on facts and circumstances of each individual case.

In the case before me, the Defendant contends that he is a bona fide purchaser for value without any Notice of fraud. That at the time of purchase the second Defendant (the Seller) was the registered proprietor of the suit land. **He produced exhibit MK7 in proof of this fact and submitted that the principle of law that protects him was settled in ORINDA DE SOUZA Vs KASAMALI MANJI (1962) EA at page 758. That:-**

"The cardinal principle of the Statute is that the Register is everything, and that except in cases of actual fraud on the part of the person dealing with the registered proprietor has an indefeasible Title against all the world."

My view is that this principle has been further qualified by the detailed position stated by L. VOUMARD Q.C. (Supra).

In my view, the law has not been static and the duty to do due diligence in the designs of fraud requires the intending purchaser to do more than merely looking at the Certificate of Title but to investigate the validity of the Title. **The mischief of fraud and elements of fraud have overtime mutated to involve the Registrars of Titles. For instance, there are cases where Instrument numbers that are used to register proprietorship have been found to be none existent or Instruments that rightly belong to other properties e.g. for caveats. This necessitates departure from what the position of the Courts in 1962, 61 years ago when the case of De SOUZA (Supra) was decided.** We have found more instructive authority in a more recent decision by the Uganda superior Court, in the case of:- **SIR JOHN BAGEIRE Vs AUSI MATOVU C.A. NO. 7 OF 1996 (C.A.U.)**

The Court of Appeal considered what was expected, in that case, to discharge the burden of proving the plea of being a bona fide purchaser for value without Notice and His Lordship G. M. OKELLO, J. A, (as he then was) stated:-

"It must be noted that Lands are not vegetables which are bought from unknown sellers. Lands are very valuable properties and buyers are expected to make thorough investigations not only of the land but also of the owner before purchase."

Had Martin Kasekende done the due diligence in the manner aforesaid he would have found out the truth about the land ownership in Lubowa and would have saved people from losing the USD 8.000.000/-. The land in question is also titled and the copies of the title are below. Let's add them as **Accused COMPLIANANTS Exhibit Number MK 8.**

COMPLIANANTS EXHIBIT NUMBER MK8.

UGANDA

REGISTRATION OF TITLES ORDINANCE.

Certificate of Title.

MAILO REGISTER. VOLUME 273. FOLIO 2.

Certificate No. 18570

DESCRIPTION OF LAND.

ALL THAT piece of MAILO land delineated and edged red on the plan hereto annexed situate at:—

Place	County.	District.
Bunamusaya, Lusera, Nakukuba, Mutungo, Kigo among others	Kiadondo	Mengo

and containing the following area or thereabouts:—

acres.	3840	acres.
acres.		acres.
acres.		acres.
acres.		acres.
acres.		acres.
acres.	3840	acres.

Inst. 18570

INSTRUMENT No. 18570

OWNERSHIP.

Yusufu Suna Kiwewa Omulangila

is ~~and~~ now the proprietor~~s~~ of an absolute MAILO estate in the MAILO land above described subject to the incumbrances hereinafter set out.

Dated this 6th day of JUNE 1906

J Berjman
Actg D.O

Registrar of Titles.

4219—1000—25-10-1934

Mailo Register Vol. _____ Folio _____

No.	Date of Registration.	NATURE OF DOCUMENT.	Initials of Registrar.

60

MEMORANDUM OF MORTGAGES, ENCUMBRANCES,

OR

OTHER INTERESTS ON THE SAID LAND.

Mailo Register **Vol.** 273 **Folio** 2

No.	Date of Registration.	NATURE OF DOCUMENT.	Initials of Registrar.
F.B. 18570	6th June 1906 10/55 a.m	Duplicate Original Title dated 6th June 1906 to yusuf Buna Kawawa Omulangila of Bunamwaya in the County of Mpigande in Buganda Province PB 6526. FEA 4 square miles Bearing Bunamwaya, Lweza, Lubowa, Nkozi, Nakukulu and Mutungo Mpigande Buganda Province	

MEMORANDUM OF MORTGAGES, ENCUMBRANCES,

OR

OTHER INTERESTS ON THE SAID LAND.

Mailo Register **Vol.** 273 **Folio** 2

No.	Date of Registration.	NATURE OF DOCUMENT.	Initials of Registrar.
F.B. 18570	6th June 1906 10/55 a.m	Duplicate Original Title dated 6th June 1906 to yusf Buna Kwesa Omulangila of Bunamwaya in the County of Kyadondo in Buganda Province. MB 6526. F.E.A. 4 square miles Bearing Bunamwaya, Lwanga, Lubowa, Nagalo, Makukula and Mutungo Kyadondo Buganda Province	

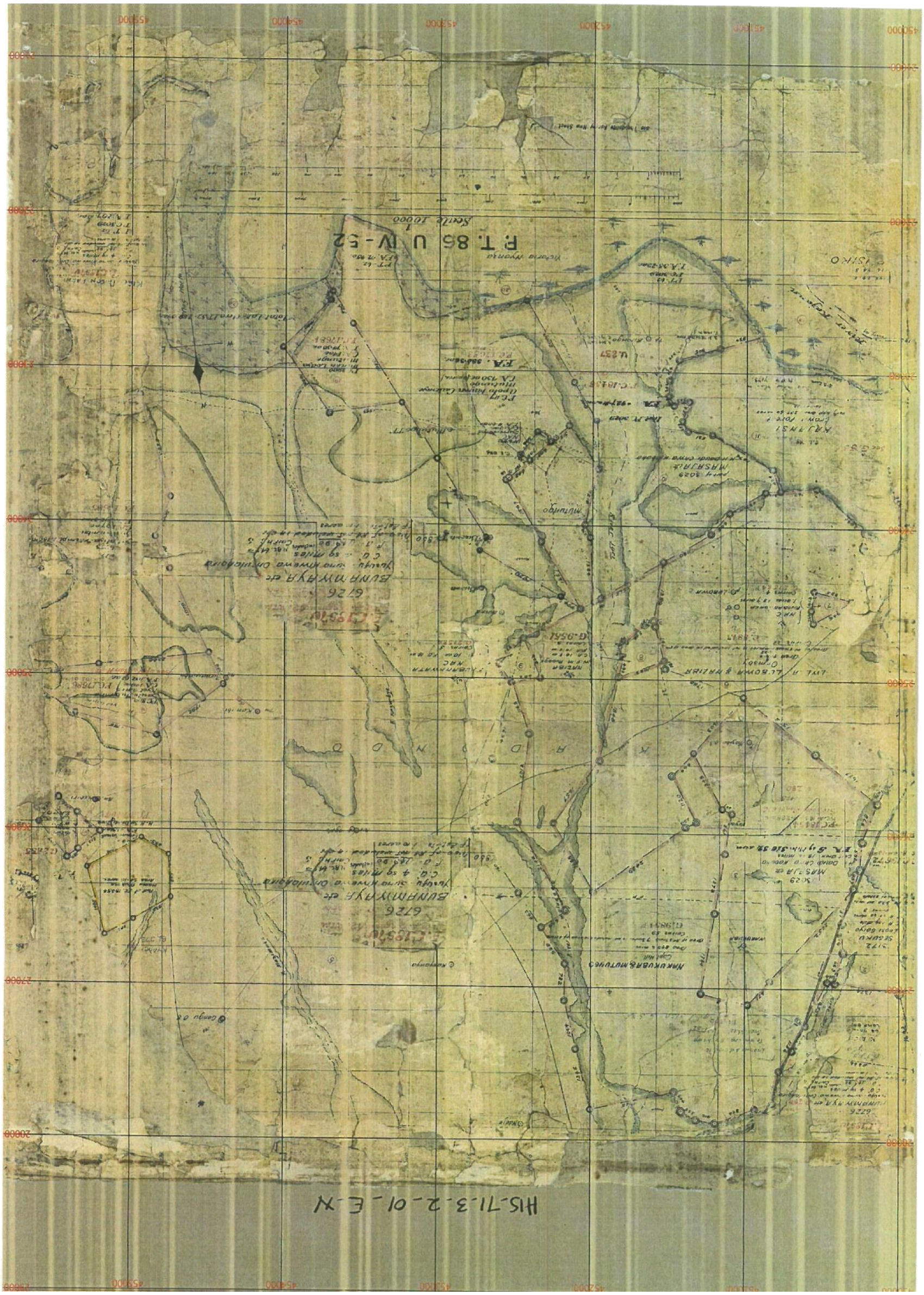
MEMORANDUM OF MORTGAGES, ENCUMBRANCES,

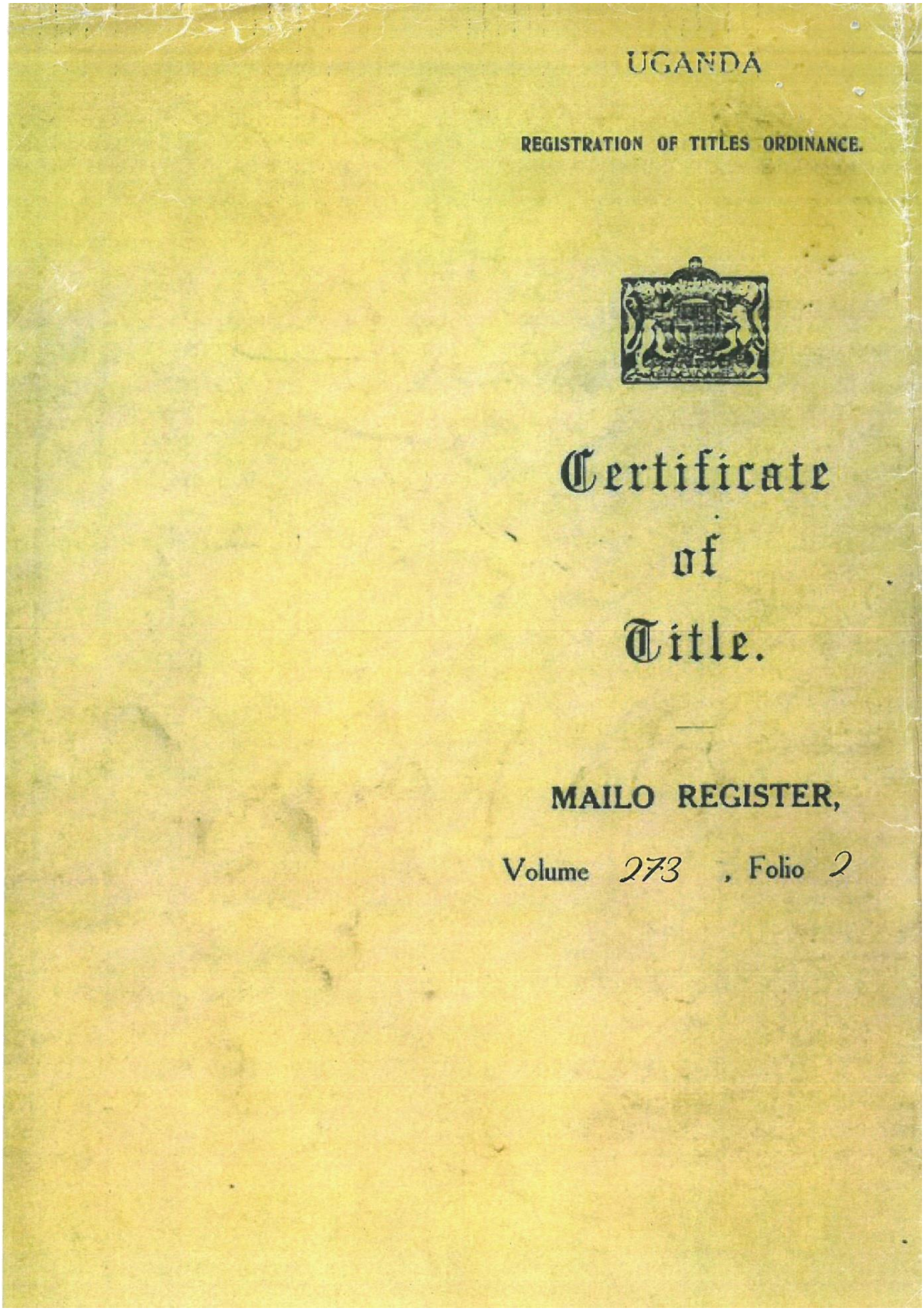
OR

OTHER INTERESTS ON THE SAID LAND.

Mailo Register **Vol.** 273 **Folio** 2

No.	Date of Registration.	NATURE OF DOCUMENT.	Initials of Registrar.
	6th June 1906 10/55 a.m.	Duplicate Original, non transferable Lease Title dated 6th June 1910 to Gardhar Bangha at Nsoko - Bunamwaya in the County of Kyadondo in Buganda Province, MB 6726, F.B 17007, F.B.A 10.70 acres for ninety nine years as mandated under the registration of Titles ordinance Subject to terms detailed in the deed	
	12th October 1910	Duplicate Original, non transferable Lease Title dated 12th October 1910 to Boyi Hall at Nakulubu and Mutungo Parish in the County of Kyadondo in Buganda Province, G9854, Grant Area 8.346 Acres for ninety nine years as mandated under the registration of Titles ordinance Subject to terms detailed in the deed	
	12th October 1910	Duplicate Original, non transferable Lease Title dated 12th October 1910 to Owoloy at Lweza, Lubowa and Nsozi in the County of Kyadondo in Buganda Province, G8843, Grant Area 7088 Acres for ninety nine years as mandated under the registration of Titles ordinance Subject to terms detailed in the deed	
	12th October 1910	Duplicate Original, non transferable Lease Title dated 12th October 1910 to N.A.B at Bunamwaya - Kyadondo - Wakiso - Mpenja in the County of Kyadondo in Buganda Province, G21584, Grant Area 1083 Acres for ninety nine years as mandated under the registration of Titles ordinance Subject to terms detailed in the deed	
	12th October 1910	Duplicate Original, non transferable Lease Title dated 12th October 1910 to N.A.B at Kyebunwa - Kyadondo - Wakiso - Mpenja in the County of Kyadondo in Buganda Province, G21584, Grant Area 70 Acres for ninety nine years as mandated under the registration of Titles ordinance Subject to terms detailed in the deed	
	12th October 1910	Duplicate Original, non transferable Lease Title dated 12th October 1910 to W.F.M. Kabuga at Nsozi - Kyadondo - Wakiso - Mpenja in the County of Kyadondo in Buganda Province, G9551, Grant Area 148 Acres for ninety nine years as mandated under the registration of Titles ordinance Subject to terms detailed in the deed	
	12th October 1910	Duplicate Original, non transferable Lease Title dated 12th October 1910 to N.A.B at Kibuukakwata - Kyadondo - Wakiso - Mpenja in the County of Kyadondo in Buganda Province, G21584, Grant Area 100 Acres for ninety nine years as mandated under the registration of Titles ordinance Subject to terms detailed in the deed	
	12th October 1910	Duplicate Original, non transferable Lease Title dated 20th October 1931 to John James Mills Land Bishop of Uganda of Bishop's House, Kampala Uganda. 2 Folio 16 of the Freehold Register at Lweza - Kyadondo - Wakiso Mpenja in the County of Kyadondo in Buganda Province, G8843, Grant Area 120 Acres for ninety nine years as mandated under the registration of Titles ordinance Subject to terms detailed in the deed	


FT. 86 U IV-52
Scale 1:50,000
HIS-TI-3-2-01-E-IV



The information from the title matches that we see below

OFFICE OF THE
SENIOR PRESIDENTIAL ADVISOR/COORDINATOR
INTERNAL AND EXTERNAL SECURITY ORGANISATIONS

THE REPUBLIC OF UGANDA

President's Office
P. O. Box 36764,
Tel: 0414 - 237378
Fax: 0414 - 344483
E-mail: intelligencecootdcentre@yahoo.co.u
Kampala, UGANDA

(17)

Our Ref:

Your Ref:

(18)

08/11/2011.

THE COMMISSIONER LANDS AND SURVEY.
ENTEBBE, UGANDA.

See Photographes
Process urgently
21/11/11

Dear Sir/Madam.

RE: ESTATE OF YUSUFU SSUUNA KIWEEWA AND KASALINA NKINZI.

Reference is made to the above Estate.

We are kindly requesting for all the detailed information concerning the said Estate for further ness of our investigations.

Your response will be highly appreciated.

Yours' faithfully

Samuel Wasswa-*psc (u)*
Brigadier
Office of the Coordinator ISO & ESO

OFFICE OF THE COORDINATOR * ISO and ESO *

SURVEYS & MAPPING DEPARTMENT
RECEIVED
17 NOV 2011

66

E-mail: mlhud@mlhud.go.ug
Fax: 230891
Telephone: General: 342931/3
Hon.Minister: Direct:253871
Hon.Minister of State (Lands): 231020
Hon. Minister of State (Housing): 349265
Hon. Minister of State (Urban Development):
Permanent Secretary: 230879
Under Secretary: 236359

THE REPUBLIC OF UGANDA

MINISTRY OF LANDS
HOUSING AND URBAN
DEVELOPMENT
P.O. BOX 7096
KAMPALA - UGANDA

(18)

In any correspondence on
this subject please quote
No LAD 13/14/01

(14)

25th November 2011

The Office of the Coordinator ISO and ESO
President's Office
P.O. Box 36764
KAMPALA

RE: REPORT ON KYADONDO BLOCKS 265 AND 269

A thorough search has been made on both Cadastral "Cartridge" Map Sheets and Microfilm as per available records on Kyadondo Block 265 and 269 at Bunamwaya, Lweza, Lubowa, Naziba, Nakukuba and Mutungo, and the findings are that at the time of taking these records, records are as follows:

1. Cadastral "Cartridge" Map Sheets 71/1/21 and 22 and 71/3/1 and 3
   Kyadondo Block 265 and 269
   Place: Bunamwaya, Lweza, Lubowa, Naziba, Nakukuba and Mutungo-Kyadondo-Wakiso
   F.C.: 18570
   P.C.: 6726
   F.C.A.: 4 Sq. Miles
   Owner: Yusuf Suna Kiwewa Omulangira
   Date: 6th June 1906

ii. Kyadondo Block 265 Marked PIN 6
   Place: Bunamwaya Kyadondo Wakiso Mengo
   F.C.: 18570
   P.C.: 6726
   F.C.A.: 2 Sq. Miles 592.27 Acres
   Owner: Yusuf Suna Kiwewa Omulangira
   Date: 6th June 1906

iii. Kyadondo Block 265 Marked PIN 6B
   Place: Nfufu-Bunamwaya-Kyadondo-Wakiso-Mengo
   F.C.: 17007
   P.C.: 6726
   F.C.A.: 10.70 Acres
   Owner: Leased to Gardhas Bargha
   Date: -

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2. Microfilm Record:

Kyadondo Block 265

Place	Nfufu-Bunamwaya-Kyadondo-Wakiso-Mengo
F.C.	17007
P.C.	6726
M.R.V.	220
Fol	11
Instrument No.	-
Area	10.0 Acres
Owner	Yusuf Suna Kiwewa Omulangira
Date	12th October 1922

ii. Kyadondo Block 265

Place	Bunamwaya-Kyadondo-Wakiso-Mengo
F.C.	18570
P.C.	6726
MRV	273
Fol.	15
Instrument No.	-
Area	1,942.27 Acres
Owner	Yusuf Suna Kiwewa Omulangira
Date	8th February 1924

Cadastral "Cartridge" Map Sheets 71/1/21 and 22 and 71/3/1 and 2

Kyadondo Block 269 Marked PIN 4

Place	Nakukuba and Mutungo-Kyadondo-Wakiso
Grant No.	G 9854
Grant Area	843.6 Acres
Granted to	Capt. Hill
Date	-

Kyadondo Block 269 Marked PIN 6

Place	Lweza, Lubowa and Naziba
Grant No.	G 8843
Grant Area	708.8 Acres
Granted to	Ormsby
Date	-

Kyadondo Block 265 Marked PIN 6A

Place	Bunamwaya-Kyadondo-Wakiso-Mengo
Grant No.	G 21584
Grant Area	10.83 Acres
Granted to	N.A.C.
Date	-

Kyadondo Block 269 Marked PIN 7
Place Kigobawonga-Kyadondo-Wakiso-Mengo
Grant No. G 21584
Grant Area 7.0 Acres
Granted to N.A.C.
Date -

Kyadondo Block 269 Marked PIN 8
Place Naziba-Kyadondo-Wakiso-Mengo
Grant No. G 9551
Grant Area 14.8 Acres
Granted to W.F.M. Rubaga
Date -

Kyadondo Block 269 Marked PIN 9
Place Kikubankwata-Kyadondo-Wakiso-Mengo
Grant No. G 21584
Grant Area 10.0 Acres
Granted to N.A.C.
Date -

Microfilm Record:
Kyadondo Block 269
Place Lweza-Kyadondo-Wakiso-Mengo
Grant No. G 8843
F.R. Vol 33
Fol 12
Instrument No. 16149
Grant Area 12.0 Acres
Granted to John James Wills Lord Bishop of Uganda of Bishop's House, Kampala Uganda, 2 Folio 16 of the Freehold Register
Date 20th October 1931

Ownership continues:
Under Instrument 25230 dated 14th February 1934, Proprietor The Church Missionary Trust Association Limited of the Church Missionary House, Salisbury Square London E.C.A. England.
"The Church Missionary Trust Association" was cancelled.
Proprietor:- Under Instrument 69908 dated 17th May 1946 K.M. Trowell M.B.F. wife of Hubert Carey Trowell M.D.F.P.C. of Uganda Medical Department. This was also cancelled.

Proprietor:- Under Instrument 139116 dated 12th December 1957, Alfred Henry Campbell and Florence Evelyn Campbell, both of P.O. Box 16 Kampala.

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F.C.
P.C.
Grant No. G.9551
Granted Area 14.8 Acres
Grantee W.F.M. Rubaga
Map dated 1911

Microfilm Record:
Kyadondo Block 269
Place Lubowa Estate-Kyadondo-Wakiso-Mengo
F.C.
P.C.
Grant No. G. 9854 and G.8843
MRV 82
Fol. 1
Instrument 139274
Granted Area 1,834.143 Acres
Grantee Capt. Hill and Ormsby
Registered in: The Uganda Company Limited 13, Road Lane, London E.C. 3 England and P.O. Box 1 Kampala
Dated 25th January 1953

Under Instrument No.147734 less the six plots Marked 4,652 Acres delinated and edged red on the said plan Marked "B" hereto annexed transferred to the Uganda Company "African" Ltd and Registered in Volume 88 Fol. 24 of Freehold on 10th August 1960. It is not indicated how the 4,652 Acres were registered in freehold register volume.

The Cadastral "Cartridge" Map Sheets do not reflect who gave the grants, but since the original Customary Registered Proprietor was Yusufu Suna Kiwewa Omulangira, he is the likely Proprietor to have been the Grantor or his Successor or Successors.

According to the above mentioned records, the two portions of land were granted to Capt. Hill under Grant No. 9854, and Ormsby under Grant No. G.8843.

The records available do not reflect whether the Uganda Company Limited, was the same as Capt. Hill and Ormsby, to had registered these two pieces of land in their names, as grants were not to be sold, leased or mortgaged or otherwise, other than the conditions agreed upon by both the Grantor and the Grantee per every piece of land granted.

As most of these grants were granted before 1911, as per Map Sheet records, and the Maximum period was 99 years, this indicated that these grants expired, and if the grants were not renewed, or granted to someone else, then the land reverted to the original Customary Registered Proprietor or his Successor or Successors.

Cadastral "Cartridge" Map Sheet 70/1/8
Singo Block

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Kyadondo Block 269 Grant Nos. G 9854 and G 8843
Place Lubowa Estate
Grant Nos. G 9854 and G 8843
M.R. Vol. 82
Fol 1
Instrument No. 139274
Area 1,834.143 Acres
Registered in:- The Uganda Company Limited 13, Road Lane, London E.C.3 England and P.O. Box 1 Kampala
Date 25th January 1958

(23)

Under Instrument No. 147734, Less the six plots marked 4.652 Acres delineated and edged red on the said plan marked "B" hereto annexed transferred to the Uganda Company "Africa" Ltd, and Registered in Volume 88 Fol. 24 of Freehold on 10th August 1960. It is not indicated how the 4.652 Acres were registered in Freehold Register Volume.

After the transfer to Uganda Company "Africa" Ltd in 1960 no other transaction took place.

It is not indicated on the Cadastral "Cartridge" Map Sheets, who gave the grants, but since the Registered Proprietor was Yusufu Suna Kiwewa Omulangira, is likely to have been the one or his Successor or Successors who gave these grants.

Please find herewith attached copies of the available records.

The above was the ownership from nineteen zero six to nineteen sixty. After microfilming and archiving, transactions continued to be registered on this land. I cannot guarantee that the ownership is still the same.

Therefore, I advise you to search the Titles Register for the correct ownership and the history of any other transaction that could have taken place.

M.N. Kajumbula
For: PERMANENT SECRETARY

The **reasons why when you do a search at the Wakiso MZO and you do not find this title information in the system is because it was never entered there in because of the fraudulent ingenuity done by Sarah**

Basangwa Kulatta vides the documents below. The letter has been repeated so that you avoid back and forth during the investigation.

INTERNAL MEMO

To: C/S&M

C.c. PS

From: Ag.DLM/CLR

Date: 8/5/2014

RE: **RETURN OF MICROFILM RECORDS**

Joseph
This is to require you again to complete the Arrangement. You need to have all the films sent by the Given deadline.

You recall that a decision was made at the Heads of Departments meeting that you return all the microfilm records. You recall that the reason behind it was that Entebbe Mapping and Surveys was giving out information to the public which was misleading. We have discussed this on many occasions.

15/04/14

A case in point is Busiro Block 453 Plot 32 where you gave out information to the CIID/Commandant Land Protection Police Unit. Based on your report, it was aired on the UBC and NTV Medias that all the titles which are coming out of this land are forged and the police stated that they are basing on your report. As the author of the report I should have hoped that you would have corrected the police but so far I have not seen any response from you.

As Land Registration Department we have impressed it upon you that it is best if you are giving out microfilm information it should be complete to the present. For one reason or another you have not sent all the microfilm records.

Can you please arrange and have the microfilm records sent to Land Registration by Friday, 16th May 2014.

Sarah Kulata Basangwa
Ag.DLM/CLR

SURVEYS & MAPPING DEPARTMENT
RECEIVED
15 MAY 2014
P. O. BOX 1, ENTEBBE

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INTENAL MEMO

TO: AG. DLM

C.C MINISTER
C.C ALL MINISTERS OF STATE
C.C PS

FROM: CSM

DATE: 16TH MAY 2014

RE: TRANSFER OF MICROFILM RECORDS FROM ENTEBBE LAND OFFICE TO KAMPALA HEADQUARTERS

Reference is made to your Internal Memo dated 18th November 2013, concerning the above captioned subject.

As requested please receive some of the Microfilm records which have been organized and ready for you to receive.

Microfilm records which have been sent, cover the following counties:

County	Block Name	Block Numbers	
Kyadondo	Kyadondo	27-37	}
Kyadondo	Kyadondo	249-271	}
Kyadondo	Kyadondo	265	} 6 Films
Kyadondo	Kyadondo	244	}
Kyadondo	Kyadondo	215-221	}
Kyadondo	Kyadondo	60-67	}
Busiro	Busiro	553-604	}
Busiro	Busiro	514-552	}
Busiro	Busiro	341-377	}
Busiro	Busiro	106-144	} 7 Films
Busiro	Busiro	314, 474, 476	}
Busiro	Busiro	412-466	}
Busiro	Busiro	159-194	}
Singo	Singo	1-30	}
Singo	Singo	544-577	}
Singo	Singo	472-503	}6 Films
Singo	Singo	31-60	}
Singo	Singo	107	}

Singo	Singo	108-123	}
County	**Block Name**	**Block Numbers**	
Bulemezi	Bulemezi	875-993	}
Bulemezi	Bulemezi	654-706	}
Bulemezi	Bulemezi	215-380 & 434-691	} 5 Films
Bulemezi	Bulemezi	991-1025 & 133-223	}
Bulemezi	Bulemezi	204-232	}
Singo	Singo	629-739	}
Singo	Singo	170-189	}
Singo	Singo	303-328	} 5 Films
Singo	Singo	615-650	}
Singo	Singo	367-414	}
Bulemezi	Bulemezi	297-316	}
Bulemezi	Bulemezi	741-821	}
Bulemezi	Bulemezi	70-88	}
Bulemezi	Bulemezi	668-739	} 7 Films
Bulemezi	Bulemezi	233-249	}
Bulemezi	Bulemezi	706-943	}
Bulemezi	Bulemezi	180-203	}
Kyadondo	Kyadondo	118-130	}
Kyadondo	Kyadondo	154-193	}
Kyadondo	Kyadondo	82-86	} 4 Films
Kyadondo	Kyadondo	101-117	}
Busiro	Busiro	86-101	}
Busiro	Busiro	195-240	} 4 Films
Busiro	Busiro	468-513	}
Busiro	Busiro	269-279	}
Singo	Singo	504-524	}
Singo	Singo	269-302	}
Singo	Singo	449-451	} 4 Films
Singo	Singo	- -749	}
Bulemezi	Bulemezi	632-788	}
Bulemezi	Bulemezi	916-990	}
Bulemezi	Bulemezi	2-12	} 5 Films
Bulemezi	Bulemezi	32-53	}
Bulemezi	Bulemezi	297-316	}
Agreements and Transfers			} 2 Films
Total Number of Films			**55 Films**

Please note that the Blocks were based on Counties and the Microfilm records which have been sent are of the Counties on Blocks.

I have also sent you Mr. Dan Mukiibi (Lithographer) to assist you to set-up a mini Laboratory for storing the films. There is need to make some back-ups and to procure a microfilm reader.

Please acknowledge receipt of the films.

M.N. Kajumbula
COMMISSIONER, SURVEYS AND MAPPING

This is a case that we are litigating with fraudsters, thieves and white collar criminals by the names of Yusuf Kagumire and Martin Kasekende among others has been **given to prove that indeed Yusuf Suuna Kiwewa is the owner of the land at Lubowa. You will subsequently also be made privy to the forged documents that the Kasekendes used to cheat the national social security fund USD 8.000.000.**

But before that the prosecution will want to tell this court that **since Martin Kasekende defrauded the National social Security Fund in 2003, by supplying them a forged title, the claim by the legitimate landlord Yusuf Suuna Kiwewa (Omulangila) cannot stand because of the statute of limitations** like I have seen the Ugandan Lawyers do in **Madhivani Group Ltd v Simbwa & Ors (Civil Suit 615 of 2012) [2014] UGHCLD 32 (30 September 2014);** and in **Prince Kalemera & Anor (Administrator of the estate of the Late HRH Sir Daudi Chwa II) v The Kabaka of Buganda & 3 Ors (Civil Suit 535 of 2017) [2020] UGHCLD 16 (28 September 2020)** but this is not legally sound wisdom.

The above claim about using the statute of limitations as a cloak and shield for fraud is subsequent and applies in the above case. **As the Court held in Marden, a forged title is void, not merely voidable**. That legal status cannot be changed, regardless of how long it may take for the forgery to be uncovered. **As the Court made clear in Riverside Syndicate, Inc v Munroe, a statute of limitations "does not make an agreement that was void at its inception valid by the mere passage of time" (10 NY3d 18, 24 [2008], citing Pacchiana v Pacchiana, 94 AD2d 721 [2d Dept 1983]).** Consequently, Yusuf Suuna Kiweewa and if dead his beneficiaries may seek to vacate the **forged freehold title and National Social Security Fund's encumbrance upon the property** at Lubowa. Indeed, this is the prevailing approach in other jurisdictions **(see e.g. Moore v Smith-Snagg, 793 So 2d 1000, 1001 [Fla Dist Ct App 5th Dist 2001]**["(o)f course, there is no statute of limitations in respect to the challenge of a forged deed, which is void ab initio"]; **see also Wright v Blocker, 198 So 88, 90-91 [Fla 1940])**. The high court of West Virginia, for example, has observed that "there is no statute of limitations regarding void deeds" **(MZRP, LLC v Huntington Realty Corp., 2011 W Va LEXIS 240, 2011 WL 12455342 [W Va 2011] [void tax deed])**, while the high court of Idaho held that "[b]ecause [a] lease agreement was void ab initio, it could be challenged at any time" **(Thompson v Ebbert, 160 P3d 754, 757 [Idaho 2007] [attempted lease void based on a lack of authority to lease only a portion of the property])**.

MARTIN KASEKENDE SOLD THE NSSF a forgery and fraud and its with such authority that I refer to Martin Kasekende as a fraudster, thief and white collar criminal as indicated in my Facebook posts. State Attorney will have to agree with me that as dictate by courts in the case of Nabanoba Desiranta & A' nor v. Kayiwa Joseph & A' nor, H.C.C.S. No. 496 of 2005, Aweri Opio J (as he then was) quoting the case of UP&TC v. Abraham Katumba [1997] IV KALR 103(supra) such wisdom is good basis of referring to Martin Kasekende as a thief fraudster and white collar criminal.

It's important for the public to realize that I do not lie. These are facts that are drawn from the New Vision publication that was done online 31st July 2003 03:00 AM.

In the instant case Martin Kasekende then CEO of the National Housing and construction corporation entered the public domain because he was involved in the fraudulent sale of a **forged freehold title over the land at Lubowa to the National Social Security Fund that was done on the land for Yusuf Suuna Kiwewa whose copy of the original title has been posted and submitted to this court as evidence and can be seen in the above presents.** The freehold title over that land was given to him by the **former Chief Registrar of Titles who is also the business representative of the Mitchell Cotts Limited and all its subsidiaries, Yusuf Kagumire whose photograph is below** like he assured court in the case of **Peter Mulira v Mitchel Cotts Ltd (Civil Appeal 15 of 2002) [2004] UGCA 8 (03 April 2004);**

NOTE:

In the case of **Amratlal Purshottam & A' nor v. Gian Singh Bhambra, H.C.C.S. No. 289 of 2010 (Land Division) (Unreported)** it was held that a bona fide purchaser is one who buys property for value without notice of another's claim over the same property and without actual or constructive notice of any defects in, or

infirmities, claims, or equities against the seller's title; one who has in good faith paid valuable consideration for the property without notice of prior adverse claims. Further, that to qualify as a bona fide purchaser one must have done proper due diligence and exercised reasonable caution before entering into a transaction that would ultimately be binding upon him or her.

Similarly in the case of **Haji Nasser Katende v.Vithalidas Halidas & Co. Ltd, C.A.C.A. No. 84 of 2003** it was held that for a purchaser to rely on the bona fide purchaser doctrine he must prove seven elements which are that he holds a certificate of title, he purchased the property in good faith, he had no knowledge of the fraud, he purchased for valuable consideration, the vendor had apparent valid title, he purchased without notice of any fraud, and he was not party to the fraud.

In the case **of Nabanoba Desiranta & A' nor v. Kayiwa Joseph & A' nor, H.C.C.S. No. 496 of 2005, Aweri Opio J (as he then was) quoting the case of UP&TC v. Abraham Katumba [1997] IV KALR 103** held that as the law now stands a person who purchases an estate which he knows to be in occupation of another person other than the vendor is not a bona fide purchaser without notice. Further relying on the case of **Taylor v. Stibbert [1803 – 1813] ALL ER 432,** the Learned Judge held that the defendant failed to make reasonable inquiries of the persons in possession and as such his ignorance or negligence formed particulars of fraud. In the instant case ,**Martin Kasekende hatched this scheme of fraudulent contrivance with the strategic management of the National Housing and Construction Corporation, the strategic management of the National Social Security Fund headed by Leonard Mpuuma whose photograph** is below and **Yusuf Kagumire, former chief registrar of titles for Uganda and partner at the Law Firm Katera and Kagumire (Formerly Hunter and Greig Advocates) now H and G Advocates**. The picture of **Leonard Mpuuma to then Managing director of the National Social Security Fund has been put below for our great grandchildren to see** just like I did put it in the Facebook Page owned by me.

I humbly pray that the people involved in the scheme of fraudulent contrivance that Martin Kasekende was part of be taken as **COMPLIANANTS Exhibit Number MK 9**.

COMPLINANTS EXHIBIT NUMBER MK9

Yusufu Kagumire (Managing Partner)
Katera and Kagumire Advocates (Formerly Hunter and Greig Advocates) and now H and G advocates and
Former Chief Registrar of Titles, Ministry of Lands, Housing and Urban Planning, Uganda
In charge of handling all the Business for Mitchell Cotts Limited, Uganda Company Limited a.k.a The Vanilla Products Limited a.k.a The Uganda Tea Estates Limited a.k.a The Uganda Company Holdings Limited a.k.a The Mitchell Cotts Limited a.k.a The Market New Public Limited Company a.k.a The Uganda Properties Limited a.k.a The Project Investments Limited of Nevis a.k.a The Aqua Investments Limited a.k.a The Temax Holdings Limited, Project Investments Limited of Nevis VIDE HIS PRESENTS UNDER OATH in the case of PETER MULIRA V MITCHEL COTTS LTD ((CIVIL APPEAL NO. 15 OF 2002)) [2004] UGCA 8 (3 APRIL 2004);is the man who supplied the forged title that was used to defraud the National Social Security Fund united States Dollars Eight Million (USD 8,000,000)

Both **Martin Kasekende and Yusuf Kagumire** would have never been successful at title forgery had it not been the fraudulent ingenuity of the Commissioner Land Registration and Administration Sarah Basangwa Kulatta

Sarah Basangwa Kulatta ,Commissioner Land Registration and Administration at the Ministry of Lands, Housing and Urban Development is in charge of having made the freehold title for Yusuf Kagumire of the Mitchell Cotts Group after having received a letter from Prinsloo claiming that there title for the land in question was misplaced yet in **Peter Mulira v Mitchel Cotts Ltd (Civil Appeal 15 of 2002) [2004] UGCA 8 (03 April 2004); they had produced one** over F.C 18570 MRV 273 FOLIO 2 Land for Yusuf Suuna Kiwewa (Omulangila) which was used by the others you see above to defraud Ugandans who contribute to National Social Security Fund United States Dollars Eight Million (USD 8,000,000/-) then 25 per cent of the funds capitalization. Many of you are joking with these people but you are now going to discover the truth. Everyone will want to know what my interests in exposing this fraud are and it is the refund for the United States Dollars 8,000,000 with interest by the fraudsters since 2003 because I am one of the funds contributors. Below I will show you the title that these people used in **Peter Mulira v Mitchel Cotts Ltd (Civil Appeal 15 of 2002) [2004] UGCA 8 (03 April 2004);and they have always thought that they will use effect 179 to 186 as there cloaks of fraud in the instant case to pin Jjuuko Joseph Kiyimba. The other fraudster they worked with is below.**

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Leonard Mpuuma, Chief Executive of the National Social Security Fund connived with Martin Kasekende CEO of the National Housing Corporation and Yusuf Kagumire the representatives of all the business for Mitchell Cotts Limited and its subsidiaries whose duty was to supply the team with a forged title so that they could finally defraud the National Social Security Fund, United States Dollars Eight Million (USD 8,000,000) then 25 per cent of the total cash holding of the fund. These people cheated Ugandans who contribute to the National Social Security Fund painfully 25 per cent of the funds contribution then and then they cheated the private mailo landlord Yusuf Suuna Kiwewa, owner of the F.C 18570 over 500 acres of land. This makes Yusuf Kagumire and his team at the Mitchell Cotts Group and the Project Investments Limited, Nevis British Virgin Islands, Leonard Mpuuma and Martin Kasekende one of the most brazen thieves, white collar criminals and fraudster in their generation.

This article that explains that Martin Kasekende was part of the scheme of fraudulent contrivance that led to the defrauding of the National Social Security Fund of the said money is below for our great grandchildren and this court to see.

The forged title that we are talking about was done after the same Yusuf Kagumire in the case of **Peter Mulira v Mitchel Cotts Ltd (Civil Appeal 15 of 2002) [2004] UGCA 8 (03 April 2004)** had presented the title below for the same piece of land.

In the case of **Peter Mulira v Mitchel Cotts Ltd (Civil Appeal 15 of 2002) [2004] UGCA 8 (03 April 2004);Yusuf Kagumire** who is also the business representative of the Mitchell Cotts Group and its subsidiaries presented the title below for the land at Lubowa. **Then when it came to defrauding the National Social Security Fund, because the title below would not pass the audit test, they utilized the lease on conversion aspect of the Land Act 1998 and then made FRV 82 Folio I that they used to defraud the NSSF USD 8,000,000/-.Its interesting that the people that society carries with high regard are the master minds of such brazen fraud and when simple people like Jjuuko Joseph Kiyimba whistle blow on them, they think that they can use the Penal Code effects 179 to 186 as their cloak of fraud.** We have to agree that the principles of Equity Law do not allow statutes to be used as cloaks of fraud. **In cases like this where there is proof that Martin Kasekende is indeed part of the scheme of fraudulent contrivance that embezzled USD 8,000,000/- of the savers money** from the NSSF like I exposed him with evidence over my Facebook page to which you are privy.

I humbly pray that we let it be and based on the prior presents which are good legal and substantive evidence that proves the fraud we are talking about over the face book this court drops the charges in criminal case 651 of 2020, Uganda vs. Jjuuko Joseph Kiyimba and another for want of prosecution evidence. **For indeed this is what exercise of Legal Candor demands from professionals of our nature. Can you please see the title below for Lubowa that Yusuf Kagumire used in Peter Mulira v Mitchel Cotts Ltd (Civil Appeal 15 of 2002) [2004] UGCA 8 (03 April 2004); I humbly pray that the same be reoffered to as COMPLINANTS Exhibit number MK10. The title below is on court record in the case of Peter Mulira v Mitchel Cotts Ltd (Civil Appeal 15 of 2002) [2004] UGCA 8 (03 April 2004)**

COMPLIANANTS EXHIBIT NUMBER MK10.

M.P.481, 131/09.
FREEHOLD REGISTER VOLUME 82 FOLIO 1

District Registry

LEASEHOLD REGISTER

Volume 480 Folio 4

UGANDA
REGISTRATION OF TITLES ORDINANCE

CERTIFICATE OF TITLE

DESCRIPTION OF LAND

The Leasehold land marked A.B.C. edged red on the plan attached hereto and situate and known as follows:—

~~Street Number~~ LUBOWA ESTATE,
Road Name:
~~Township/Municipality~~
District: MENGO, - Area: APPROX. ~~4500~~ 1485-2 ACRES.

TERM from 1ST SEPTEMBER, 1957 for 99 ~~years and months~~ at the rent and subject to the covenants and conditions contained or implied in Lease Number bound up herewith and to the incumbrances (if any) entered in the Incumbrance Register.

Easements

PROPRIETORSHIP

Date and Inst. No.	Name and Address of Proprietor	Price or Value	Initials of Registrar
11TH FEBRUARY, 1960. AT 8.30 A.M. INST. 146002.	~~EAST AFRICAN TEA ESTATES LIMITED, P.O. BOX 7001, KAMPALA, A LIMITED LIABILITY COMPANY INCORPORATED UNDER THE COMPANIES ORDINANCE.~~ ASST. REGISTRAR OF TITLES		

Date of Issue: 11TH FEBRUARY, 1960.

ASSISTANT Registrar of Titles.

Registry Copy

C/UP—287—1,200—3-58. (112,97-100)

Proprietorship—*continued*

Date and Inst. No.	Name and Address of Proprietor	Price or Value	Initials of Registrar
REGD. 7/11/68. AT 11.30 A.M. INST. 175014.	Less PLOT 49 BEING PART OF THE SAID LAND SURRENDERED TO THE LESSOR, and shown on the plan marked "B" annexed hereto. [illegible]		
REGD. 28TH JANUARY, 1970, AT 10.30 A.M. INST. 179684.	~~THE UGANDA COMPANY LIMITED A LIMITED LIABILITY COMPANY INCORPORATED UNDER THE COMPANIES ACT WHOSE POSTAL ADDRESS IS P.O. BOX 7004, KAMPALA.~~		
REGD. 8/1/71, AT 2.35 P.M. INST. 184313.	THE EAST AFRICAN TEA ESTATES LIMITED OF P.O. BOX 7001, KAMPALA.		
REGD. 12.2.88. AT. 11.59. A.M. INST. 234324.	CERTIFICATE OF REPOSSESSION NO. 0411 DATED 18/12/87 ISSUED TO:- EAST AFRICAN TEA ESTATES LIMITED OF P.O. BOX 7001, KAMPALA.		

ASST. REGISTRAR OF TITLES

CHIEF REGISTRAR OF TITLES

1C

INCUMBRANCES

Date and Inst. No.	Particulars	Initials of Registrar
REGD. 15TH SEPTEMBER, 1960, AT 2.45 P.M. INST. 148092.	MORTGAGE OF THE SAID LAND TO ALLIANCE ASSURANCE COMPANY LIMITED, CARE OF P.O. BOX 26, KAMPALA, TO SECURE THE REPAYMENT OF SUM OF £ 500,000/- WITH INTEREST THEREON AS THEREIN STATED. (ALSO REGISTERED IN FREEHOLD REGISTER VOLUME 4 FOLIO 4 AND OTHER 36 FOLIOS OF THE LEASEHOLD AND FREEHOLD REGISTER). ASST. REGISTRAR OF TITLES	
REGD. 21ST DECEMBER, 1965. AT 2.00 P.M. INST. 163333.	SUB - LEASE OF PART OF THE SAID LAND BEING 0.5 OF AN ACRE AND MARKED AS PLOT No. 51 ON THE PLAN THERETO ANNEXED AND THEREON SHOWN EDGED WITH RED TO VANILLA PRODUCTS LIMITED OF P.O. BOX 1, KAMPALA FOR THE PERIOD FROM 1ST FEBRUARY, 1965 UNTIL THE 30TH AUGUST, 2056. ASST. REGISTRAR OF TITLES	
REGD. [illegible] AT [illegible] P.M. INST. 252454	CAVEAT BY: TEMAX HOLDINGS LIMITED OF P.O. Box 2400, KAMPALA AND PROJECTS INVESTMENTS INC. OF NEVIS OF P.O. Box 2400, KAMPALA. ADDRESS FOR SERVICE: M/S SEBALU AND LULE ADVOCATES, EADB, 4 NILE AVENUE, P.O. Box 2255, KAMPALA (see LN 449/15)	

The Uganda Company Holdings Limited, The Uganda Company Limited, The Mitchell Cotts Uganda Limited, The Mitchell Cotts Limited, The Vanilla Products Limited, The Uganda Tea Estates Limited, The Uganda Properties Limited, The Mitchell Cotts East and Central Africa Company Limited, Katera and Kagumire advocates (Formerly) Hunter and Greig, Katera and Kagumire advocates, Yusuf Kagumire are all the same person who forged the title above over the land at Naziba.

It's so funny **that another title was produced over the same land to support the Martin Kasekende fraud for USD 8,000,000/=** and it was orchestrated by the documents that this court will get privy to subsequently.

Infact there is an investigation that was never concluded in which this fraudster martin Kasekende was involved. We need to get a recap of these events. This investigation was conducted by the Present Inspector General of Police, Martin Okoth Ocholla, then he was called The CID deputy director, and this what the gentlemen looks like. My Lord I humbly pray that he is given a sub ponea to come and explain where this matter ended so that the fraud can be brought to the fraudster Martin Kasekende who committed it.

When people do fraud, they think it's over after sometime but the good thing is that the statute of limitations does not apply to frauds like this that are done in factum**(Fraud in the Factum).The good thing with some of these things is that one fraud leads you to another**.

WHO IS MARTIN KASEKENDE?

Eng. Martin Kasekende
Chairman of the Board of Directors
Appointed 24 August 2012

Martin Seremba Kasekende is a Director in charge of Civil Engineering Services. He is a Senior Civil Engineer and has over 30years experience in the management of large housing projects, road works and water supply. He acted as Managing Director of the Company from May 2013 to August 2014. He is the former Minister of Lands, Agriculture and Environment in the Buganda Government and the current Chairman of Buganda Land Board. He is a registered engineer. He is a former General Manager of National Housing and Construction Corporation. He is a former Board Member of NSSF, Housing Finance Bank Ltd, and Private Sector Foundation of Uganda. Before we express Martin Kasekende's crimes, it's critical that we build a foundation upon which the information that we will subsequently provide has been found so that we can help our readers and scholars understand the complexity underlying white collar crime and those who are there in involved.

Subsequently after getting to know the intel about Martin Kasekende I will then provide other evidence of how the title was forged by the above players among others. I know this is an offence that many people will want

quashed but in the interest of justice and the for the **GOOD OF PEOPLE WHO CONTRIBUTE THERE MONEY TO THE NATIONAL SOCIAL SECURITY FUND, ITS ONLY PROPER THAT MARTIN KASEKENDE IS INVESTIGATED AND BROUGHT TO COURT TO EXPLAIN WHERE THEY PUT PEOPLES MONEY.(USD 8,000,000 THEN 25% OF THE TOTAL FUNDS MONETARY COLLECTION)**.

The criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding." But we all know that this case does not warrant such merit and we pray that it also gets treated like the others that are similar to it like **David Chandi Jamwa v Uganda (Criminal Appeal No. of 2017) [2019] UGSC 61 (29 November 2019) ,Uganda Vs Geoffrey Onegi Obel, Uganda v Lwamafa Jimmy & 3 Ors (Criminal Session 3 of 2016) [2018] UGHCACD 11 (21 December 2018), Senkeeto v Uganda (Criminal Application No. 146 of 2018) [2019] UGCA 26 (9 April 2019) and Uganda v Geoffrey Kazinda (Session Case HCT-AC/CO 4 of 2016) [2020] UGHCACD 3 (28 October 2020).**

The evidence below will now show you how the forged freehold title was done on the instructions of Joseph Prinsloo and his brother who sit at Mitchell Cotts/Tamteco at Lumumba Avenue, Peter Emusungut, Yusuf Kagumire of the Mitchell Cotts Group and how the same was effected by Sarah Basangwa Kulatta. Please ensure that you get stamped certified copies of the said documents from the Ministry of Lands because they are there on the Lubowa land file for the NSSF. If they are not there please ask Sarah Basangwa Kulatta.

We should also note that the **USD 8,000,000/- (United States Eight Million Dollars)** were drawn of the National Social Security Fund accounts with the blessing of the Ministry of Finance people. **The person in charge of ensuring that this fund was successfully drawn is none but Micheal Opagi**. Micheal Opagi of the Ministry of Finance is a critical pillar in these investigations too. The evidence that puts him at the forefront of the investigation is below. I humbly pray that this be considered as **COMPLIANANTS EXHIBIT NUMBER 11**.

COMPLIANANTS EXHIBIT NUMBER 11

Source.https://www.newvision.co.ug/new_vision/news/1263135/finance-cleared-nh-cc-land-deal-opagi

Finance cleared NH&CC land deal, says Opagi

By Vision Reporter

Added 2nd August 2003 03:00 AM

THE finance ministry gave the National Housing and Construction Corporation (NH&CC) the green light to swap its land at Lubowa and Namongoona in Kampala as repayment for an US$8m dollar loan.

By Yunusu Abbey

THE finance ministry gave the National Housing and Construction Corporation (NH&CC) the green light to swap its land at Lubowa and Namongoona in Kampala as repayment for an US$8m dollar loan.

Michael Opagi, the Privatisation Unit (PU) director, said on Thursday, the NH&CC would not have ventured into such a deal without its board's approval. NH&CC, previously under the works, housing and communications ministry is under the finance ministry pending its privatisation. Leonard Mpuuma, the National Social Security Fund (NSSF) managing director, said on Monday, the public would be informed if the Lubowa-Namungoona land deal is sealed.

The corporation is facing financial problems. It has to restructure its financial position, Opagi said. Government auditors have been instructed to audit the corporation. (NH&CC) has outstanding loans to pay to the NSSF (US$8m) and East African Development Bank (US$4m), Opagi said, adding, For instance, the Crested Towers building was mortgaged to NSSF for the loan the corporation got. The NSSF loan had gone down to about US$7.6m after NH&CC made some payments to the Fund. But with some outstanding arrears, the figure went up again, a source said. The Crested Towers renovation cost where the borrowed money was spent, has since shot up to US$20m following variations made on the two buildings. In a March 15, 2002 letter to Martin Kasekende, the NH&CC general manager, John Nasasira, the works, housing and communications minister, Okayed the additional costs for the project.

Finance cleared NH&CC land deal, says Opagi.

Since Micheal Opagi okayed the deal , it's very critical that he helps the Anti-Corruption Unit to understand the criteria upon which the people's money was paid for a freehold title forged over Mailo land at Lubowa and he also needs to explain the due diligence details and audit investigations that were done for him to construe that this was the perfect deal that the people who painfully contribute their money to the National Social Security Fund would not go without. Further evidence that shows you that the National Social Security Fund title that Martin Kasekende sold to the National Social Security Fund for the USD 8,000,000/- in 2003 can be construed from the article that was written by Sarah Basangwa Kulatta in which she affirms that there forged freehold title over the land at Lubowa is legitimate without giving any legal justification for the same that I humbly pray be taken in as COMPLIANANTS EXHIBIT NUMBER 12 that I am putting below.

Source.https://www.monitor.co.ug/News/National/NSSF--right-owner-Lubowa--site---Lands-boss/688334-2690070-13x9dtsz/index.html

NSSF right owner of Lubowa site - Lands boss
Sunday April 19 2015
By Joseph Kato

Kampala- The commissioner for land registration has confirmed that National Social Security Fund (NSSF) is the rightful owner of the 565 acres of land in Lubowa off Entebbe Road which had been claimed by another party.

Ms Sarah Kulata Basangwa, the commissioner for land registration in the ministry of Lands, issued a statement on Monday acknowledging that NSSF is the registered proprietor of the said land.

She said the other claimants were relying on old records (microfilms) which do not reflect the current status of ownership.

“We are aware that there are adverse claims made by some members of the royal family into this land and the neighboring land which belongs to Mitchell Cotts Uganda Ltd. They do not have a title,” Mr Basangwa said in the statement. More than 30 relatives of the late Buganda Kingdom prince Yusuf Suuna Kiwewa and Princess Kasalina Nkinzi had accused NSSF of snatching their land in Lubowa.

When Sunday Monitor contacted Mr Joseph Juuko Kiyimba, one of the claimants on whether they had proof of ownership, he only presented a will of their late grandfather Prince Suuna which was made in 1945.

“We were surprised when we learnt that NSSF had acquired the land from Uganda Company Holdings Limited (UCHL) without our consent. We are the rightful owners of that land but we have never sold or leased it to UCHL,” Mr Kiyimba said. Mr Dennis Obbo, the spokesperson of ministry of Lands, said the land was granted to UCHL on January 25, 1958 under freehold tenure system. “We are still digging out other records which we shall avail soon enough. However, we confirm that NSSF is the registered proprietor and the people who have adverse claims do not have a title,” Mr Obbo said.

Mr Richard Byarugaba, the NSSF managing director, also issued a statement on Friday, saying the land was purchased in 2003 from three sellers namely; Uganda Company Holdings Limited, National Housing and Construction Corporation and Mr Peter Emusugut, a private citizen.

“We would like to assure our members and the general public that the fund owns all the 565 acres and in possession of 108 original (owner’s copies) of freehold certificates of titles. All the titles were subsequently transferred into the names of NSSF under various instrument numbers. These titles have never been challenged or recalled by the Lands registry or courts of law,” Mr Byarugaba statement reads in part.

editorial@ug.nationmedia.com

To have the above information rebutted the following article was given as rebuttal by the Kampala Senior Lawyer Peter Mulira who had this article published in the press explaining how the ownership of the land in question in compliance with effect 68 of the Registration of Titles Act,Cap 230 that I will put below for your cognizance.

68. History of various dealings affecting land to be preserved

Such references shall be noted in the Register Book and on instruments filed hereunder as will allow the title to be traced either downwards from or upwards to the original certificate of title; but it shall not be necessary in any certified copy of any grant, certificate or instrument to insert such references; and every such copy shall be deemed complete, notwithstanding the omission of such references.

Peter Mulira’s articles are below over the Lubowa Land. When the same is correlated with the investigative report from the President’s Office that we saw prior, there is much synchronization in the wisdom so given. Peter Mulira, will be a very good source of investigative information over the land at Lubowa over which National Social Security Fund

was cheated by Yusuf Kagumire and Martin Kasekende among others. I humbly pray that this be taken as COMPLIANANTS EXHIBIT NUMBER 13

COMPLIANANTS EXHIBIT NUMBER 13

Source.https://www.monitor.co.ug/OpEd/Commentary/Here--why-NSSF-Lubowa-Estate-title--right/689364-2698126-vgy65t/index.html

Here's why NSSF Lubowa Estate title cannot be right Monday April 27 ,2015

By Peter Mulira

As counsel for the executors of the will of Prince Yusufu Ssuna I wish to respond to the statement by the commissioner for land which appeared in your issue of April 19 titled "NSSF right owner of Lubowa estate."

The term "Lubowa Estate" does not appear in the official records at the department of mapping and survey. The term was used in 1982 on a drawing by a private firm of valuation surveyors of an area known officially as Lweza, Naziba and Nakukuba to plot Block 269 acting on behalf of Uganda Company (holdings) Ltd contrary to the legal requirement that only the government surveyor can carry out such a survey. The drawing was later attached to a special certificate which was issued in 1983 in place of a print signed by the Commissioner for Surveys which the law requires.

Secondly, it is wrong for the commissioner to dismiss microfilm records as irrelevant to the present status of the land. Microfilms are important adjuncts to our system of land administration because they provide the root and history of every title to land.

The mysterious removal of the microfilm camera from the map office, Entebbe, has led to numerous frauds involving mailo land because it is now difficult to prove the origin of claims especially since records of instruments of transactions are also not accessible to the public.

Thirdly, in cases of ownership of land which originate from Final Mailo Certificates the title is established by operation of law. The Registration of Titles Act defines a Final Mailo Certificate as "a certificate by which the title of an African of Uganda to land is finally recognised" and section 7(3) of the same Act provides that "All land included in a every final certificate shall be deemed to have been registered under the Act, and no application to bring such land under the operation of this Act shall be necessary." Accordingly, contrary to what the commissioner said, Ssuna has a title to a mailo interest because he was issued with a Final Mailo Certificate No 18570 on June 6, 1906 and his interest is traceable to the 1900 Buganda agreement under which the four brothers of Kabaka Sir Daudi Chwa namely; Princes Joseph, Augustine, Ramzan and Yusufu Ssuna were each given eight square miles.

Four of of Ssuna's eight square were surveyed and recorded on Cadastral "Cartridge" Map Sheets 71/1/21 and 22 and 71/3/1 and 3 at the department of Mapping and Surveys, Entebbe, which reveal the following details:
Place: Bunamwaya, Lweza., Lubowa, Naziba, Nakukuba and Mutungo.
Final Certificate: 18570
Provisional Certificate: 6726
Final Certificate Area: 4 Square Miles
Owner: Yusufu Ssuna Omulangira.
Date: 6th June 1906

In 1903 Ssuna leased 843.6 acres at Nakukuba and Mutungo and 708.8 acres at Lweza, Lubowa and Naziba to Captain Hill and Mr Ormsby respectively under Grant numbers G.8843 and G. 9854.The procedure in which Europeans could take interest in mailo land was provided for under the Crown Lands Ordinance 190 which covered both Crown land and mailo land leased to Europeans. The following sections are pertinent:

10. No lease of Crown land (read mailo land as well) shall exceed ninety nine years.| 14. Except where expressly varied or excepted there shall be implied in every lease under this Ordinance covenants by the lessee (a) not to assign, except by will, the land leased or any part of it without the previous consent of the Commissioner (Governor.)

Under the Registration of Titles Ordinance, 1908, it was provided that "in cases in which the land shall have been surveyed and demarcated by the Government surveyor the land officer would prepare a duplicate in the prescribed forms of (a) all Crown Grants of land both in fee and a for term of years and (b) of all Final Mailo Certificates issued by Government to native owners."

Accordingly, there should be two types of titles to this land namely one representing the Grants to Capt. Hill and Mr Ormsby and another title to mailo land in the names of Yusufu Ssuna. Indeed SSuna's mailo interest was registered in Mailo Register 273 Folio 2 but for reasons only known in the land office the description of the land was changed to Mailo Register Volume 82 Folio 1.

The interests in the Grants expired in 2002 on lapse of the ninety nine year terms.

Unfortunately, the land office converted Ssuna's mailo interest represented in Mailo Register Volume 82 Folio 1 into freehold contrary to the provisions of the law and issued a freehold title deed to Uganda Company (Holdings) Ltd in Freehold Register Volume 82 Folio 1 meaning that Ssuna's mailo reference was used for a freehold title.

Article 237(b) of the Constitution provides that only customary land tenure or any lease which was granted to a Uganda citizen to be converted into freehold.

The NSSF title cannot be right because it is a freehold title on mailo land. Secondly, it is affected by a wrongful usurpation of land belonging to an African Ugandan (citizen) to be given to foreigners. Lastly what is unconstitutional cannot be right.

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Its quiet interesting that when all these press wars were taking place, the Office of the Auditor General Kept quiet about it and did not come out to explain or even commission an investigation into the reality that surrounds the ownership of the land at Lubowa which indeed is a material asset on the National Social Security Fund balance sheet for it's a critical asset therefore. Its critical that as part of the investigation, there is need to call the Auditor General Mr, John Muwanga to provide a report on the discoveries that he has done about the ownership of the land at Lubowa and to also explain why he has never qualified the audit report for the National Social Security Fund based on the above findings because the Lubowa Land carries a material portion of value on the fund's total balance sheet.

Mr. John Muwanga, The Auditor General of Uganda will have to come and explain why even after many media outcries about the land ownership in Lubowa that appeared in the press, he has never strongly come out to investigate and provide accountability for the same to the public and before Parliament of Uganda as part of his deliverables

At this Juncture Mr. John Muwanga will also have to explain why, **Martin Kasekende** former **CEO of the National Housing and Construction Corporation who is in charge of having sold the NSSF the forged freehold title for Lubowa Land for USD 8,000,000/-** has always remained part of **the Non-Executive Directors of the NSSF** even after having subjected the fund to the above loss that was done by him through white collar crime and fraud that we are now seeing. Presently Martin Kasekende is the Chairman of the substantially owned subsidiary of the NSSF, Uganda Clays Limited. John Muwanga should also explain why Martin Kasekendes information above was never included n his audit findings and he should tell the world whether his audit for the National Social Security Fund meets the global standards of auditing issued by the International Federation of Accountants worldwide. **Critical to this investigation too will be the former Chief Registrar of Titles Yusuf Kagumire who is also Partner at the Law firm now H and G formerly Hunter and Greig whose history of location has been provided below.**

There has been a lot of confusion surrounding public and private mailo land in Buganda. A lot of freeholds have **now stemmed as a result of title forgery, mix up of records and at times the deliberate concealment of fraud arising out of hiding and stealing records, a**

behavior that stems from the Ministry of Lands, Housing and Urban Planning. There is a culture of title forgery at the Ministry of Lands, grandfathered by the former chief Registrar of titles for Uganda, Yusuf Kagumire also a celebrated member of the Uganda Law Society who is also one of the brains behind the making of the Land Act,Cap 227 which is the legal framework used by land title forging phantoms like him who are the originators of title forgery and land grabbing. Yusuf Kagumire does his land frauds through **Mitchell Cotts Group and its subsidiaries whose business is handled by Yusuf Kagumire vides his presents in the case of Peter Mulira v Mitchel Cotts Ltd ((CIVIL APPEAL NO. 15 OF 2002)) [2004] UGCA 8 (3 April 2004);, Yusuf Kagumire while Chief Registrar of Titles developed a culture of forging titles using the Mitchell Cotts Group and its subsidiaries.** A detail of the subsidiaries can be obtained from the lawyers of Mitchell Cotts Group and its subsidiaries who are his LAW FIRM **Katera and Kagumire Advocates** presently located at Stanbic Building at crested towers Kampala. Mr. Kagumire Yusuf is one of the reasons you see the confusion on block 269 Land at Lubowa. Many people fear Yusuf Kagumire and his boys for they have branded them untouchables. Yusuf Kagumire makes me remember the relationship between Enron and George Bush. People will tell you that Yusuf Kagumire is His Excellency. President Museveni's Lawyers and the public does not think that he should take advantage of this to carry out title forgery and grab peoples land. I will give you a recap of the Enron Saga and George Bush. **Also important to this fraud racket is Martin Kasekende who is the prima of this investigation who while at the National Housing Corporation induced the National Social Security Fund directors and managers to buy a forged freehold title over the land at Lubowa that was fraud in the factum.**

Where a person has been induced to sign a contractual document by fraud or misrepresentation, the transaction will be voidable. A mistake of fact is a factual error that, if the correct fact had been known, would have resulted in a different contract. A mistake of fact arises where either (1) the facts exist, but are unknown, or (2) the facts do not exist as they are believed to exist. The defence of mistake would arise in a case where only one party has knowledge of the subject matter and the other simply relies on what the first party intimates. Ordinarily, unilateral mistake does not make a contract void, except where one party relied on a statement of the other about a material fact that the second party knew or should have known was mistaken by the first part or where the mistake was "unconscionable", i.e. so serious and unreasonable to be outrageous. There is a distinction between mechanical calculations and business error.

Non est factum is a defence which may be available to someone who has been misled into signing a document which is fundamentally different from what he or she intended to execute or sign, where one party has signed a contract, believing it to be something different from what it actually is. The signatory must have made a fundamental mistake as to the nature of the contents of the document being signed, having regard to the intended practical effect of the document; and the document must be radically different from the one the signatory intended to sign **(see Saunders v. Anglia Building Society [1971] AC 1004, sub nom Gallie v. Lee [1969] 2 Ch 17; [1969] 1 All ER 1062. See also Muskham Finance Ltd v. Howard [1963] 1 All ER 81)**. Without such a defence, the

mistaken party may be liable under a document appearing to be valid and binding. The plea will be rejected where the person signing had some idea about the nature of the document and what it was dealing with, even though he or she may have been unclear, or even mistaken, as to the nature of some of the obligations created by the instrument, or as to the particular class to which it belonged. In this case, Martin Kasekende then Managing Director of the National Housing Corporation as director of the defendant company was aware of the general nature of the transaction and was unable to show that the document he signed was fundamentally different from what the thought it to be. **This he did with Yusuf Kagumire of Mitchell Cotts Limited and then later off loaded the risk of his fraud on savers money in the National Social Security Fund. These people did not only steal 25 per cent of the National Social Security Fund money for Uganda but they even deposited a forged title done on Yusuf Suunas Mailo land without his consent for the took the freehold (Land Act,Cap 227 route) which is the route taken by most land title forging phantoms to make forged titles in Uganda. So Ugandans in Buganda be ware you cannot have a freehold title that is legitimate.**

We need to note that Martin Kasekende and Yusuf Kagumire are influential people with Yusuf Kagumire allegedly President Museveni's Lawyer and with very good connections to the powers that be, they coerced the then managing director of the National Social Security Fund to sign the contract under undue influence, "persuasion is not unlawful, but pressure of whatever character if so exerted as to overpower the volition without convincing the judgment..., will constitute undue influence, though no force has been either used or threatened" **(see Sir J. P. Wilde in Hall v. Hall LR 1 P&D 481, at p. 482)**. The concept of undue influence involves one person taking advantage of a position of power over another person. ".... in all cases of undue influence the critical question is whether or not the persuasion or the advice, in other words the influence, has invaded the free volition of the [victim] to accept or reject the persuasion or advice or withstand the influence. The [victim] may be led but [he or] she must not be driven and [his or] her will must be the offspring of [his or] her own volition, not a record of someone else's. There is no undue influence unless the [victim] if [he or] she were free and informed could say "This is not my wish but I must do it." **(see Daniel v. Drew [2005] EWCA Civ 507, [2005] WTLR 807 CA at para. 36). This fraud contained a consipiracy with the people in Ministry of Finance and Economic Planning involved. This explains why the Auditor General of Uganda has never made any serious disclosures of the flaws surrounding this fraudulent scheme in which nationals lost both land and money.**

In Bank of Credit and Commerce International SA v. Aboody [1992] 4 All ER 955, the Court of Appeal classified this doctrine into two types: actual and presumed. Under actual undue influence the claimant must prove that he or she was induced to sign a contract or agree to a transaction under applied undue influence; whereas in presumed undue influence the claimant only has to prove that there was enough trust and reliance in between the parties that the side committing the wrong abused that relationship by exerting undue influence and inducing them to enter an ambiguous transaction. In the

instant case, there was no relationship of such a kind that the defendant in fact placed its trust and confidence in the plaintiff to safeguard its interest. The two companies were dealing at arm's length. The transaction was not founded upon a fiduciary relationship of trust and therefore presumed undue influence does not arise at all.

In respect of actual undue influence, the claimant must adduce evidence to show that the power was unbalanced at the time of the signing of the contract. It usually arises in a relationship of influence involving acts such as threats to end a relationship, or continuing to badger the party where they have refused consent until they eventually give in. For example in **CIBC Mortgages v. Pitt [1994] 1 AC 200,** the respondent's husband wished to purchase some shares on the stock market. He pressured his wife, the respondent, into signing a mortgage of £150,000 securing the family home. The stated purpose of the loan was to purchase a holiday home and pay off the existing mortgage. The husband used the money to purchase shares and then used those shares as collateral to purchase further shares. For a time the shares did very well and he was a millionaire on paper. The wife saw no benefit from these shares as any income was always used to purchase more shares. In 1987 the stock market crashed. The bank sought to enforce the security under the mortgage which at the time exceeded the value of the home. The wife raised actual undue influence in defence. It was held that the transaction on its face did not seem to the manifest disadvantage of the wife, because the stated purpose was to purchase a holiday home.

Although a threat to commit a lawful act can sometimes amount to unlawful duress, that is determined after court applies the following tests;- whether the victim protested; whether there was an alternative route available to the victim; whether the victim independently advised; and whether the victim took steps to avoid the agreement after entering in to it. These tests have been applied when courts consider whether the impugned conduct, although legitimate, amounted to economic duress. In **Occidental Worldwide Investment Corporation v. Skibs (The Sibeon & The Sibotre) [1976] 1 Lloyds Rep 293** it was held that commercial pressure was not enough. It must be shown that there existed a state of affairs constituting coercion of the will so as to vitiate consent. "The classic case of duress is, however, not the lack of will to submit but the victim's intentional submission arising from the realisation that there is no other practical choice open to him" (The Universe Sentinel [1983] 1AC 366). Accordingly two elements of duress are required;compulsion of the will - absence of choice and illegitimacy of the pressure. For example the **Court of Appeal in Hennessy v. Cragmyle [1986] 1 ICR 461** considered a case where an employee was faced with the choice of summary dismissal or redundancy with compensation on terms that he would make no further claims. The employee after consultation with ACAS accepted the offer of redundancy but later claimed that he was subject to economic duress, an argument which the Court of Appeal rejected stating: "However, like the well-established duress to

the person, it is a ground of avoidance only if the duress is such that the will of the contractor is overborne. His consent must be vitiated."

Notwithstanding the duress on the National Social Security Fund managing directors then, the basis of the contract between the National Housing construction Company and the National Social Security Fund were the forged titled for the Lands at Lubowa and Namungona that were at gist and the fundermental of the contracts. The defense of fraud in the factum presents in theory a somewhat confused intermingling of tort and contract principles. At the heart of the assertion of non est factum is the absence of that degree of mutual assent prerequisite to formation of a binding contract; absent the proverbial "meeting of the minds," one cannot be said to have obligated himself in law and the purported transaction is regarded as void. This is basic contract doctrine. **New Jersey Mortgage and Investment Co. v. Dorsey, supra (60 N.J. Super., at pp. 303-304); C.I.T. Corp. v. Panac, 25 Cal. 2d 547, 154 P.2d 710, 160 A.L.R. 1285 (Sup. Ct. 1944); 1 Williston, Contracts (3d ed. 1957), § 95A, p. 350; 5 Williston, Contracts (Rev. ed. 1937), § 1488, p. 4154; Restatement, Contracts (1932), § 475. See Note, 7 Rutgers L. Rev. 405, 409 (1952).** Thus, where the signer of the instrument has been led to believe and does believe that he is signing something of a different character from the note he actually does inscribe, he has not in fact assented to the obligation represented by the paper.

Nevertheless, where the circumstances demonstrate the basic ingredient of voluntary, physical inscription, there has been at least an outward manifestation of assent on the part of the signer, thereby bringing into play as against a holder in due course additional considerations grounded in equity but phrased in terms of negligence. The signer must in such a situation exercise the caution of a reasonably prudent man to determine the character of the paper upon which he has purposefully placed his signature. The rationale of such a requirement may be found in the desirability of preserving general confidence in commercial paper, as well as in the equitable principle that where one of two innocent persons must suffer by the wrongful act of a third party, he who enabled the third party to perpetrate the wrong must sustain the loss. **See Alexander v. Brogley, 63 N.J.L. 307, 308-309 (E. & A. 1899). In fact, not a few courts have articulated the maker's negligence in terms of estoppel to assert the defense of fraud in the factum. Briggs v. Ewart, 51 Mo. 245 (Sup. Ct. 1873); Citizens' National Bank v. Smith, 55 N.H. 593 (Sup. Ct. 1875); Amato v. Fullington, 213 Or. 71, 322 P.2d 309, 315 (Sup. Ct. 1958).**

"The signer always possesses affirmative knowledge of some kind, even if it be nothing more than that he is conscious that he is signing his name. If, therefore, the cases in which the signer is held liable because of his negligence be critically examined with a view to discovering therein what mental elements were common in all cases, these new factors could be assembled in a statement which would assert that their existence operated as an indispensable condition precedent to the existence of the negotiable contract. Such knowledge would constitute an irreducible minimum. The negligence aspect would then disappear, but the cases would be decided just as they are now decided."

The cases on this subject have nonetheless continued to speak in terms of the basic knowledge of the signer and the reasonableness of his failure to obtain additional information as to the nature and terms of the paper obligation. See Annotation, "Deception as to Character of Paper Signed as Defense as Against Bona Fide Holder of Negotiable Paper," **160 A.L.R. 1295 (1946). See Uniform Commercial Code (1958), § 3-305, providing that:**

1) **"To the extent that a holder is a holder in due course he takes the instrument free from**
2) **all defenses of any party to the instrument with whom the holder has not dealt except**
3) **such misrepresentation as has induced the party to sign the instrument with neither knowledge nor reasonable opportunity to obtain knowledge of its character or its essential terms;**

The theoretical distinction is not entirely academic, viewing the question from a different angle. Considerations of negligence aside, one may only raise the defense of fraud in the factum if one has in fact been defrauded, and the answer to this question entails an inquiry into the precise manner and mode in which the maker was deceived which in turn requires illumination of his actual knowledge at the time of signing.

Further, with respect to the question of negligence, it is clear that the standard of care imposed on the signer may vary in degree according to the extent of his actual awareness of the nature of the instrument he is in fact signing. As stated in **National Exchange Bank of Auburn v. Veneman, 43 Hun 241, 245 (Sup. Ct. 1887),** "The nature and character of the paper intended to be executed must always be considered in determining the question of the defendant's negligence." Thus, where the signer does not intend to evidence a legal obligation, he is under a lesser duty of care than where he does mean to undertake a legal duty of some kind; and where he fully intends to bind himself on a commercial promissory instrument, he is under a duty to exercise the highest degree of care. **United States v. Tholen, 186 F. Supp. 346, 362-364 (D.C.N.D. Iowa 1960). See Britton, Bills and Notes (1943), § 130, p. 576; 1 Williston, supra, § 95A, pp. 351-52.**

The view has been widely expressed that knowledge of the signer that he is inscribing a negotiable document will deprive him of a claim of ignorance of the "essential character" of the instrument and thereby of the defense of fraud in the factum, in spite of excusable deception as to certain of the contractual details. **Cf. Fayette County Savings Bank v. *69 Steffes, 54 Iowa 214, 215, 6 N.W. 267 (Sup. Ct. 1880). See 8 Am. Jur., Bills and Notes, § 589, p. 295.**

The defense of fraud in the factum goes to the very substance of the contract, and the identity of the contractee, as well as the quantum of the obligation, is an essential component of the settled agreement. We would blind ourselves to commercial reality by denying that fraudulent identification of the obligee of an instrument, especially when

considered in conjunction with alleged misrepresentations as to the amount of the obligation, could reasonably be interpreted as misstatement of an "essential term" of the document. **There is need to look at the legal provision as an extension of the defense of fraud in the factum "to an instrument signed with knowledge that it is a negotiable instrument, but without knowledge of its essential terms." Cf. Asplund v. Marjohn Corp., 66 N.J. Super. 255, 267 (App. Div. 1961).**

Therefore, were we, solely for purposes of analysis, to separate the questions of knowledge and negligence, there would be some merit in the view that much as the final obligation to enter **the fraud deal by Kagumire can be squared on the National Social Security Fund Managing director then, he did not, standing alone, sufficiently approximate the obligation, as actually written, as to preclude him as a matter of law from claiming fraud in the factum but it was also taint with the guys in the Ministry of Finance, Planning and Economic Development that even include the office of the Auditor General of Uganda** and this explains why the auditor general has **never highlighted this fraud in the financial statements of the National Social Security Fund yet it hurt 25 per cent** of the total fund capital in 2003 and is very material to the funds going concern status en masse. **See Stacy v. Ross, 27 Tex. 3 (Sup. Ct. 1863); Richardson v. Schirtz, 59 Ill. 313 (Sup. Ct. 1871); Griffiths v. Kellogg, 39 Wis. 290, 294 (Sup. Ct. 1876); Carbine v. Pringle, 90 Ill. 302 (Sup. Ct. 1878); Millard v. Barton, 13 R.I. 601 (Sup. Ct. 1882); Bowers v. Thomas, 62 Wis. 480, 22 N.W. 710 (Sup. Ct. 1885); Gate City Nat. Bank v. Bunton, 316 Mo. 1338, 296 S.W. 375 (Sup. Ct. 1927).**

The fact of the matter is, however, that the elements of knowledge and negligence cannot feasibly be isolated in determining the viability of the defense of non est factum under a given set of circumstances. And as stated infra, the fact that the signer knew he was inscribing a negotiable document places upon him an unusually high degree of care in ascertaining its operative details. It is the failure of the instant defendant to demonstrate proper exercise of that duty, under the circumstances of his signing and his own particular status, that compels us to reaffirm his liability on the note as a matter of law. This would finally mean that the fraud of taking 25 per cent of the Money from National Social Security Fund for a forged Lubowa is directly attributable to Yusuf Kagumire of the Mitchell Cotts who in this case is the title forging phantom, the then Managing director of the National Social Security fund and Martin Kasekende together with Leonard Mpuuma among others who then gave direction while they run the above corporates that were hit.

Though the auditor General is to face blame like Arthur Andersen had to face the blame for the audit of Enron, they cannot be held liable for the fraud because they are third parties to the issue and because it's the duty of the directors and management to design internal control systems that have the ability to hedge there organisations against fraud and financial malfeasance and not the auditors. Therefore at this stage, father having given all the information that the Auditors have at hand, they will need to be held as witnesses to this matter so that the state can hold Martin Kasekende liable for fraud.

These are the people who should be brought to book on this matter. However many lawyers in Uganda will want to argue that we can no longer do book then for this fraud based on the limitations that are bought about by the larches that are engraved in the statute of limitations but this is a lie. We are open to the fact that statutes are made to support cases that are legal. Its trite wisdom that the courts of law will not support issues that stem from illegalities and have then legally justified. As ruled in the case of **konda Zimula v Byarugaba & anor (H.C.C.S. NO. 66 OF 2007) [2014] UGHCLD 68 (10 November 2014);that,"…… Courts of justice will not allow a person to keep an advantage which he obtained in bad faith. Fraud once pleaded and proved it vitiates judgments, contracts and all transactions whatsoever……..". Given the clarity of our law that a forged title like the one Martin Kasekende and Yusuf Kagumire sold to the National Social Security Fund is void ab initio, and that it is a document without legal capacity to have any effect on ownership rights, the question remains whether a claim challenging a conveyance or encumbrance of real property based on such deed is subject to a time bar. Our case law permits only one answer: a claim against a forged title is not subject to a statute of limitations defense.**

As the Court held in Marden, a forged title is void, not merely voidable. That legal status cannot be changed, regardless of how long it may take for the forgery to be uncovered. As the Court made clear in **Riverside Syndicate, Inc v Munroe, a statute of limitations "does not make an agreement that was void at its inception valid by the mere passage of time" (10 NY3d 18, 24 [2008], citing Pacchiana v Pacchiana, 94 AD2d 721 [2d Dept 1983]). Consequently, Yusuf Suuna Kiwewa may seek to vacate the title and National Social Security fund's encumbrance upon the property. If, as Yusuf Suuna claims, the title is a forgery, then it was never valid and National Social Security Fund lacks title to Suuna's-interest in the property based on the "corrected" title. Definitely this means that National Social Security Fund will have to sue National Housing and Construction Corporation for damages and restitution and subsequently as a result of the value chain, the crime will subsequently end up on Yusuf Kagumire and Martin Kasekende.**

And we should note that the land in question is a fixed asset and under the international accounting standards for **the National Social Security Fund to continue capitalizing this portion that was sold to them by National Housing Corporation they will base on the records executed by Martin Kasekende and others that are involved in the transaction otherwise on getting this information, the National Social Security Fund is supposed to decapitalise the asset and treat it as a contingent liability and the pursue National Housing in court for fraud.** This will imply that the reserve amounts for the National Social Security Fund will be expensed and this will have a bearing on the intrest payable. **To avoid this position the managing director of National Social Security Fund and the Head legal have looked for the beneficiaries of the Estate of Yusuf Suuna Kiwewa and they are pursuing the regularization of the asset** but **such effort is yet to yield because the Board Members of the National Social Security Fund who include but are not limited to Martin Kasekende among others have always halted these negotiations under the guise of protecting the Martin Kasekende fraud that we are investigating now.** So nay prudent

investigation done by **the Anti-Corruption Unit will involve causing the interdiction of Martin Kasekende and others board members that were involved in this with him while he was at National Housing and Construction Corporation so that they can pave way for thorough investigations.**

At the same time the management of the National Social Security Fund need talking to board on how best to have this handled for they will have to take on the National Housing Corporation for **institutional fraud but this is subject to board approval which also cannot be done because not only is Martin Kasekende part of the Board but he also has significant control and influence over it that he will do anything to deter such prudent accounting and internal control measures**.

The people below will help to sort the problem by providing further information to the Anti-Corruption Unit, otherwise the National Social Security Fund will be in a loss and that also puts the investment that has been done on the land at risk. The management is optimistic for when the author talked to the Head of legal, Isaac Ogwang they expressed positivity to have this settled pre 2023 year end.

Richard Byarugaba and Isaac Ogwang having problems with the forged freeholds in National Social Security Fund

The National Social Security Fund will have to be sorted but we need to **UNEARTH THE FRAUD UNDERLYING THE FREEHOLD TITLE IN LUBOWA** and for this we have Martin Kasekende to explain to the world. Please be privy to the information below. The person behind this fraud and the kind of monies involved is Martin Kasekende and he needs to explain to the world were the got the Lubowa land from and the land at Namungona which is private mailo land without ever paying the landlords in line with the ruling in the case of

Uganda National Roads Authority v Irumba & Anor (CONSTITUTIONAL APPEAL NO.02 OF 2014) [2015] UGSC 22 (29 October 2015); In this case the Supreme Court upheld the Constitutional Court decision that the **Land Acquisition Act was inconsistent with Article 26 of the Constitution and therefore unconstitutional.** The Supreme Court held further that whereas **Article 26 was not among the non-derogable rights**, this does not give powers to Government to compulsorily acquire people's land without prior payment, and that such planned Government projects do not fall under the exceptions of disasters and emergences. This was the same wisdom that Martin Kasekende was supposed to exercise. The picture of Martin Kasekende the fraudster who brought the National Security Fund in trouble is here below.

Martin Kasekende, the man who defrauded NSSF while still at National Housing and later he was engaged in the BLB as the Minister of Lands and you will soon discover that he has done similar fraud there through a scheme called Kyapa Mungalo and Wetukkire which is an issue we will handle in other reports.

I also found it critical that as part of your investigations you need to have some information about the Mitchell Cotts Plc due diligence.

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THE ARCHITECTS OF FREEHOLD TITLE FORGERY IN UGANDA UNEARTHED

(CASE REFERENCE TO MITCHELL COTTS PLC OF UNITED KINGDOM AND HOW IT BECAME A VICTIM OF IDENTITY THEFT TO YUSUFU KAGUMIRE)

Prior to dealing with Mitchell Cotts Limited and its subsidiaries, it was incumbent on Martin Kasekende the Managing directors of the National Housing Corporation to do due diligence on the Mitchell Cotts Group and its subsidiaries that he says are the ones that sold him the forged freehold title that he later sold to the NSSF for the United States Dollars 8.000.000/-.

Due diligence can mean something as simple as homework. An investor is required to do his homework before proceeding further with a transaction. Due diligence is a thorough appraisal of a business, a company or a property, as the case may be that a potential investor or buyer will undertake before the deal is finalized. A due diligence process allows a potential buyer or investor to learn all relevant details about a company, which he would reasonably require before finalizing a transaction or an investment. It is the process that involves verifications and precautions that are necessary to identify or prevent foreseeable risks. Before choosing to act on cash reserves, an investor should make himself an expert in what he proposes to invest. **The failure for Martin Kasekende and other directors of the National Housing and Construction corporation to do due diligence on the Mitchell Cotts Limited prior to entering the land deal with them at Lubowa makes them liable under the tort of negligence.**

The vicarious liability provisions have been evolving ever since the evolution of law of torts. "Offence by companies" is a standard vicarious liability provision in most statutes, which is often used to fasten the liability on directors for the acts and omissions of the company. **The vicarious liability provisions have a standard language providing that the person-in-charge of and responsible for the conduct of the business of the company at the time of the commission of the offence, as well as other officers are liable for that offence. However, those provisions do not make a distinction between Managing Directors ("MDs")/ Executive Directors ("EDs") and Non-Executive Directors ("NEDs")/ Independent Directors ("IDs").** The concept of strict liability was evolved in the leading case of **Ryland v. Fletcher 1868,** in this case, the Privy Council held, that a person can legally be held liable for the consequences of activity even in the absence of fault or criminal intent on his or her part, even if the person has no fault or criminal intent. In this case, although the defendant was not negligent or intentionally damaged the plaintiff, he had been held liable under the strict liability.

In the case of **S.M.S. Pharmaceuticals Ltd vs Neeta Bhalla & Anr on 20 February, 2007** the SC held that liability arises from being in charge of and responsible for the conduct of the business of the company at the relevant time when the offence was committed and not on the basis of merely holding a designation or office in a company. Conversely, a person not holding any office or designation in a company may be liable if he satisfies the main requirement of being in-charge of and responsible for the conduct of business of a company at the relevant time. Liability depends on the role one plays in the affairs of a company and not on designation or status **[Shailendra Swarup v. Enforcement Directorate, 2020 221 CompCas 758 (SC).]** The SC in the case of **Sunil Bharti Mittal vs Cbi on 9 January, 2015 ruled by Chief Justice, Madan B. Lokur, A.K. Sikri** has clarified that the principle of alter ego can only be applied to make a company liable for acts of a person or a group of persons who exercise significant and pervasive control over the affairs of the company and could not be applied in the reverse. It was further noted that directors of the company can be held responsible for the wrong done by the company only where there is sufficient evidence to prove that such persons played an active role and they had a criminal intent or otherwise, the relevant statute has specifically imposed liability on them, such as labour and environmental law statutes.

Furthermore, the SC in the case of **Shiv Kumar Jatia v. State of NCT of Delhi [IR 2019 SC 4463],** reaffirmed its views set forth in the Sunil Mittal case, and held that an individual either as a director or a managing director or chairman of the company can be made an accused, along with the company, only if there is sufficient material to prove his active role, coupled with criminal intent. It is essential that the criminal intent alleged must have direct nexus with the accused. It needs to be emphasised that mitigating factors such as knowledge, exercise of due diligence, consent or connivance are also a part of such clause. The director of a company is liable to be convicted for an offence committed by the company if he/ she

was in charge of and was responsible to the company for the conduct of its business or if it is proved that the offence was committed with the consent or connivance of, or was attributable to any negligence on the part of the director concerned **[State of Karnataka v. Pratap Chand, 1981 2 SCC 335.]**.

With the above authorities forming part of our mind-set in the instant case, the Director of Public Prosecutions will note that Martin Kasekende among other was a key player in defrauding the NSSF Uganda USD 8,000,000/- in 2003 because he had knowledge, was liable for exercising of due diligence, and from what we have obtained from the press articles above, he consented and in connivance with the Mitchell Cotts Group Subsidiaries with which he did the transactions, they fraudulently sold the National Social Security Fund a forged freehold title over the land at Lubowa for which the anti-corruption unit is now holding him liable. **Martin Kasekende was the Chief Executive Officer of the National Housing and Construction Corporation and director therefore**. The director of a company is liable to be convicted for an offence committed by the company if he/ she was in charge of and was responsible to the company for the conduct of its business or if it is proved that the offence was committed with the consent or connivance of, or was attributable to any negligence on the part of the director concerned as was ruled by the supreme court in the case of **[State of Karnataka v. Pratap Chand, 1981 2 SCC 335.]**.

Due diligence marks the embarkation of any major transaction or investment. It is that part of the acquisition wherein the prospective buyer assesses whether he would be able to get the returns for as much investment. A prospective buyer/investor needs to be sure that he or she is making the right move. An investor needs to ensure that they are not venturing into an investment or acquisition just on good faith. The good faith needs to be backed by all relevant and strong evidence that will be provided by the process of due diligence. Legal, due diligence is not just a task to be undertaken during an investment or an acquisition. Still, it is a necessity to have complete knowledge of the target and the liabilities associated with that target. This explains why before dealing with the Mitchell Cots Limited for the sale of Lubowa land, it was incumbent on Martin Kasekende to have done the due diligence and acquiated himself with the Mitchell Cotts Group like we have done below.

WHO IS MITCHELL COTTS LIMITED

Mitchell Cotts Limited Company is a United Kingdom based company. Mitchell Cotts Limited was incorporated vide the following documents in 1989 but this was after it mutated its self from Market New Public Limited that had also mutated from the Uganda Company Holdings Limited that had mutated its self from the Uganda Company Limited that was incorporated in 1903 in the United Kingdom..

Now any intelligent person will tell you that a company that was incorporated in 1989 could not have a stake in property that was registered in Uganda before its incorporation. The most intresting thing about this company is that a company search in its records will bring you the file in which the detailed Memorandums and articles are in the names of Market New Public Limited Company. This would imply that either Mitchell Cotts Limited as never incorporated or if it was the documents that relate to it are misplaced in the Company Registry in the United Kingdom. For the United Kingdom, this fact of misplacing information does not actually exist , we therefore had to do a deep dive search on the Market New Public Limited Company but put here below are documents for the Market New Public Limited Company.

Later on we were able to discover that there was more than arm's length relationships with a number of companies in the United Kingdom that Mitchell Cotts Limited was a close person that included the Uganda Company Limited, the East African Tea Estates Limited, The Uganda Cultivated

Coy, The Vanilla Company Uganda, Uganda Company Holdings Limited among others. But some of these are its documents.

G

COMPANIES FORM No. 12

Statutory Declaration of compliance with requirements on application for registration of a company

12

Please do not write in this margin

Pursuant to section 12(3) of the Companies Act 1985

Please complete legibly, preferably in black type, or bold block lettering

To the Registrar of Companies

For official use

For official use

2422704

Name of company

* insert full name of Company

*

MARKETNEW PUBLIC LIMITED COMPANY

I, DAVID STEWART HODGSON, signing on behalf

of SWIFT INCORPORATIONS LIMITED

2 BACHES STREET

LONDON N1 6UB

† delete as appropriate

do solemnly and sincerely declare that I am a [~~Solicitor engaged in the formation of the company~~]† [person named as director or secretary of the company in the statement delivered to the registrar under section 10(2)† and that all the requirements of the above Act in respect of the registration of the above company and of matters precedent and incidental to it have been complied with,

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835

Declared at 11, SHIP STREET

BRECON,

POWYS

Declarant to sign below

1 AUG 1989

before me

A Commissioner for Oaths or Notary Public or Justice of the Peace or Solicitor having the powers conferred on a Commissioner for Oaths.

Presentor's name, address and reference (if any):

For official use

New Companies Section

Post room

NC

7 SEP 1989

COMPANIES

103

G

COMPANIES FORM No. 10

Statement of first directors and secretary and intended situation of registered office

10

Please do not write in this margin

Pursuant to section 10 of the Companies Act 1985

To the Registrar of Companies

Please complete legibly, preferably in black type, or bold block lettering

For official use

Name of company

* insert full name of company

* MARKETNEW PUBLIC LIMITED COMPANY

The intended situation of the registered office of the company on incorporation is as stated below

2 Baches Street,
London

Postcode N1 6UB

If the memorandum is delivered by an agent for the subscribers of the memorandum please mark 'X' in the box opposite and insert the agent's name and address below

X

Jordan & Sons Limited
21 St. Thomas Street
Bristol

Postcode BS1 6JS

Number of continuation sheets attached (see note 1)

Presentor's name address and reference (if any):

For official use
General Section

Post room NC
7 SEP 1989
COMPANIES HOUSE

RMPLC/CS

Page 1

The name(s) and particulars of the person who is, or the persons who are, to be the first director or directors of the company (note 2) are as follows:

Please do not write in this margin

Name (note 3)	INSTANT COMPANIES LIMITED		Business occupation Company Registration Agent
Previous name(s) (note 3)	None		Nationality UK Registered
Address (note 4)	2 Baches Street		
	London		Date of birth (where applicable) (note 6) Inc. 18.02.81
	Postcode	N1 6UB	
Other directorships †	None		

† enter particulars of other directorships held or previously held (see note 5) if this space is insufficient use a continuation sheet.

I consent to act as director of the company named on page 1

Signature [signature] (Authorised Signatory) Date 1 AUG 1989

Name (note 3)	SWIFT INCORPORATIONS LIMITED		Business occupation Company Registration Agent
Previous name(s) (note 3)	None		Nationality UK Registered
Address (note 4)	2 Baches Street		
	London		Date of birth (where applicable) (note 6) Inc. 10.09.85
	Postcode	N1 6UB	
Other directorships †	None		

I consent to act as director of the company named on page 1

Signature [signature] (Authorised Signatory) Date 1 AUG 1989

The name(s) and particulars of the person who is, or the persons who are, to be the first secretary, or joint secretaries, of the company are as follows:

Name (notes 3 & 7)	Mavis June Latter		
Previous name(s) (note 3)	None		
Address (Notes 4 & 7)	2 Baches Street		
	London		
	Postcode	N1 6UB	

I consent to act as secretary of the company named on page 1

Signature [signature] Date 1 AUG 1989

Signature of agent on behalf of subscribers [signature] Date 1 AUG 1989

RMPLC(CS)

Page 2

THE COMPANIES ACT 1985

PUBLIC COMPANY
LIMITED BY SHARES

Memorandum of Association

1. The Company's name is

MARKETNEW PUBLIC LIMITED COMPANY

2. The Company is to be a public company.

3. The Company's registered office is to be situated in England and Wales.

4. The Company's objects are:—

(a) (i) To carry on all or any of the businesses of general merchants and traders, cash and credit traders, manufacturers' agents and representatives, insurance brokers and consultants, estate and advertising agents, mortgage brokers, financial agents, advisers, managers and administrators, hire purchase and general financiers, brokers and agents, commission agents, importers and exporters, manufacturers, retailers, wholesalers, buyers, sellers, distributors and shippers of, and dealers in all products, goods, wares, merchandise and produce of every description, to participate in, undertake, perform and carry on all kinds of commercial, industrial, trading and financial operations and enterprises; to carry on all or any of the businesses of marketing and business consultants, advertising agents and contractors, general storekeepers, warehousemen, discount traders, mail order specialists, railway, shipping and forwarding agents, shippers, traders, capitalists and financiers either on the Company's own account or otherwise, printers and publishers; haulage and transport contractors, garage proprietors, operators, hirers and letters on hire of, and dealers in motor and other vehicles, craft, plant, machinery, tools and equipment of all kinds; and to purchase or otherwise acquire and take over any businesses or undertakings which may be deemed expedient, or to become interested in, and to carry on or dispose of, remove or put an end to the same or otherwise deal with any such businesses or undertakings as may be thought desirable.

(ii) To carry on the business of an investment company in all its branches, and to acquire by purchase, lease, concession, grant, licence or otherwise such businesses, options, rights, privileges, lands, buildings, leases, underleases, stocks, shares, debentures, debenture stock, bonds, obligations, securities, reversionary interests, annuities, policies of assurance and other property and rights and interests in property as the Company shall deem fit and generally to hold, manage, develop, lease, sell or dispose of the same and to vary any of the investments of the Company, to act as trustees of any deeds constituting or securing any debentures, debenture stock or other securities or obligations.

(b) To carry on any other trade or business whatever which can in the opinion of the Board of Directors be advantageously carried on in connection with or ancillary to any of the businesses of the Company.

(c) To purchase or by any other means acquire and take options over any property whatever, and any rights or privileges of any kind over or in respect of any property.

(d) To apply for, register, purchase, or by other means acquire and protect, prolong and renew, whether in the United Kingdom or elsewhere any patents, patent rights, brevets d'invention, licences, secret processes, trade marks, designs, protections and concessions and to disclaim, alter, modify, use and turn to account and to manufacture under or grant licences or privileges in respect of the same, and to expend money in experimenting upon, testing and improving any patents, inventions or rights which the Company may acquire or propose to acquire.

(e) To acquire or undertake the whole or any part of the business, goodwill, and assets of any person, firm, or company carrying on or proposing to carry on any of the businesses which the Company is authorised to carry on and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company, or to acquire an interest in, amalgamate with, or enter into partnership or into any arrangement for sharing profits, or for co-operation, or for mutual assistance with any such person, firm or company, or for subsidising or otherwise assisting any such person, firm or company, and to give or accept, by way of consideration for any of the acts or things aforesaid or property acquired, any shares, debentures, debenture stock or securities that may be agreed upon, and to hold and retain, or sell, mortgage and deal with any shares, debentures, debenture stock or securities so received.

(f) To improve, manage, construct, repair, develop, exchange, let on lease or otherwise, mortgage, charge, sell, dispose of, turn to account, grant licences, options, rights and privileges in respect of, or otherwise deal with all or any part of the property and rights of the Company.

(g) To invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined and to hold or otherwise deal with any investments made.

(h) To lend and advance money or give credit on any terms and with or without security to any person, firm or company (including without prejudice to the generality of the foregoing any holding company, subsidiary or fellow subsidiary of, or any other company associated in any way with, the Company), to enter into guarantees, contracts of indemnity and suretyships of all kinds, to receive money on deposit or loan upon any terms, and to secure or guarantee in any manner and upon any terms the payment of any sum of money or the performance of any obligation by any person, firm or company (including without prejudice to the generality of the foregoing any such holding company, subsidiary, fellow subsidiary or associated company as aforesaid).

(i) To borrow and raise money in any manner and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, standard security, lien or other security upon the whole or any part of the Company's property or assets (whether present or future), including its uncalled capital, and also by a similar mortgage, charge, standard security, lien or security to secure and guarantee the performance by the Company of any obligation or liability it may undertake or which may become binding on it.

(j) To draw, make, accept, endorse, discount, negotiate, execute and issue cheques, bills of exchange, promissory notes, bills of lading, warrants, debentures, and other negotiable or transferable instruments.

(k) To apply for, promote, and obtain any Act of Parliament, order, or licence of the Department of Trade or other authority for enabling the Company to carry any of its objects into effect, or for effecting any modification of the Company's constitution, or for any other purpose which may seem calculated directly or indirectly to promote the Company's interests, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interests.

(l) To enter into any arrangements with any government or authority (supreme, municipal, local, or otherwise) that may seem conducive to the attainment of the Company's objects or any of them, and to obtain from any such government or authority any charters, decrees, rights, privileges or concessions which the Company may think desirable and to carry out, exercise, and comply with any such charters, decrees, rights, privileges, and concessions.

(m) To subscribe for, take, purchase, or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any other company constituted or carrying on business in any part of the world, and debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority, municipal, local or otherwise, in any part of the world.

(n) To control, manage, finance, subsidise, co-ordinate or otherwise assist any company or companies in which the Company has a direct or indirect financial interest, to provide secretarial, administrative, technical, commercial and other services and facilities of all kinds for any such company or companies and to make payments by way of subvention or otherwise and any other arrangements which may seem desirable with respect to any business or operations of or generally with respect to any such company or companies.

(o) To promote any other company for the purpose of acquiring the whole or any part of the business or property or undertaking or any of the liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company or to enhance the value of any property or business of the Company, and to place or guarantee the placing of, underwrite, subscribe for, or otherwise acquire all or any part of the shares or securities of any such company as aforesaid.

(p) To sell or otherwise dispose of the whole or any part of the business or property of the Company, either together or in portions, for such consideration as the Company may think fit, and in particular for shares, debentures, or securities of any company purchasing the same.

(q) To act as agents or brokers and as trustees for any person, firm or company, and to undertake and perform sub-contracts.

(r) To remunerate any person, firm or company rendering services to the Company either by cash payment or by the allotment to him or them of shares or other securities of the Company credited as paid up in full or in part or otherwise as may be thought expedient.

(s) To pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company, or to contract with any person, firm or company to pay the same, and to pay commissions to brokers and others for underwriting, placing, selling, or guaranteeing the subscription of any shares or other securities of the Company.

(t) To support and subscribe to any charitable or public object and to support and subscribe to any institution, society, or club which may be for the benefit of the Company or its Directors or employees, or may be connected with any town or place where the Company carries on business; to give or award pensions, annuities, gratuities, and superannuation or other allowances or benefits or charitable aid and generally to provide advantages, facilities and services for any persons who are or have been Directors of, or who are or have been employed by, or who are serving or have served the Company, or any company which is a subsidiary of the Company or the holding company of the Company or a fellow subsidiary of the Company or the predecessors in business of the Company or of any such subsidiary, holding or fellow subsidiary company and to the wives, widows, children and other relatives and dependants of such persons; to make payments towards insurance; and to set up, establish, support and maintain superannuation and other funds or schemes (whether contributory or non-contributory) for the benefit of any of such persons and of their wives, widows, children and other relatives and dependants; and to set up, establish, support and maintain profit sharing or share purchase schemes for the benefit of any of the employees of the Company or of any such subsidiary, holding or fellow subsidiary company and to lend money to any such employees or to trustees on their behalf to enable any such purchase schemes to be established or maintained.

(u) If and only to the extent permitted by the Act, to give, whether directly or indirectly, any kind of financial assistance (as defined in Section 152(1)(a) of the Act) for any such purpose as is specified in Section 151(1) and/or Section 151(2) of the Act.

(v) To distribute among the Members of the Company in kind any property of the Company of whatever nature.

(w) To procure the Company to be registered or recognised in any part of the world.

(x) To do all or any of the things or matters aforesaid in any part of the world and either as principals, agents, contractors or otherwise, and by or through agents, brokers, sub-contractors or otherwise and either alone or in conjunction with others.

(y) To do all such other things as may be deemed incidental or conducive to the attainment of the Company's objects or any of them.

AND so that:—

(1) None of the objects set forth in any sub-clause of this Clause shall be restrictively construed but the widest interpretation shall be given to each such object, and none of such objects shall, except where the context expressly so requires, be in any way limited or restricted by reference to or inference from any other object or objects set forth in such sub-clause, or by reference to or inference from the terms of any other sub-clause of this Clause, or by reference to or inference from the name of the Company.

(2) None of the sub-clauses of this Clause and none of the objects therein specified shall be deemed subsidiary or ancillary to any of the objects specified in any other such sub-clause, and the Company shall have as full a power to exercise each and every one of the objects specified in each sub-clause of this Clause as though each such sub-clause contained the objects of a separate Company.

(3) The word 'Company' in this Clause, except where used in reference to the Company, shall be deemed to include any partnership or other body of persons, whether incorporated or unincorporated and whether domiciled in the United Kingdom or elsewhere.

(4) In this Clause the expression 'the Act' means the Companies Act 1985, but so that any reference in this Clause to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.

5. The liability of the Members is limited.

6. The Company's share capital is £100,000 divided into 100,000 shares of £1 each.

WE, the subscribers to this Memorandum of Association, wish to be formed into a Company pursuant to this Memorandum; and we agree to take the number of shares shown opposite our respective names.

Names and addresses of Subscribers	Number of shares taken by each Subscriber
1. For and on behalf of Instant Companies Limited, 2 Baches Street, London. N1 6UB	— One
2. For and on behalf of Swift Incorporations Limited, 2 Baches Street, London. N1 6UB	— One
	Total shares taken — Two

Dated - 1 AUG 1989

Witness to the above Signatures:—

Terry Jayne,
2 Baches Street,
London. N1 6UB

THE COMPANIES ACT 1985

PUBLIC COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

PRELIMINARY

1. (a) The Regulations contained in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (such Table being hereinafter called 'Table A') shall apply to the Company save in so far as they are excluded or varied hereby and such Regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the regulations of the Company.

(b) In these Articles the expression 'the Act' means the Companies Act 1985, but so that any reference in these Articles to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.

ALLOTMENT OF SHARES

2. (a) Shares which are comprised in the authorised but unissued share capital of the Company shall be under the control of the Directors who may (subject to Sections 80 and 89 of the Act and to paragraphs (b) and (c) below) allot, grant options over or otherwise dispose of the same, to such persons, on such terms and in such manner as they think fit.

(b) The Directors are generally and unconditionally authorised for the purposes of Section 80 of the Act, to exercise any power of the Company to allot and grant rights to subscribe for or convert securities into shares of the Company up to the amount of the authorised share capital with which the Company is incorporated at any time or times during the period of five years from the date of incorporation and the Directors may, after that period, allot any shares or grant any such rights under this authority in pursuance of an offer or agreement so to do made by the Company within that period. The authority hereby given may at any time (subject to the said Section 80) be renewed, revoked or varied by Ordinary Resolution of the Company in General Meeting.

(c) The Directors are empowered to allot and grant rights to subscribe for or convert securities into shares of the Company pursuant to the authority conferred under paragraph (b) above as if Section 89(1) of the Act did not apply. This power shall enable the Directors so to allot and grant rights to subscribe for or convert securities into shares of the Company after its expiry in pursuance of an offer or agreement so to do made by the Company before its expiry.

(d) Save as authorised by the Act, the Company shall not give, whether directly or indirectly, any financial assistance (as defined in Section 152(1)(a) of the Act) for any such purpose as is specified in Section 151 of the Act.

(e) Save as permitted by Section 101(2) of the Act, no shares of the Company shall be allotted except as paid up at least as to one quarter of their nominal value and the whole of any premium.

SHARES

3. The liability of any Member in default in respect of a call shall be increased by the addition at the end of the first sentence of Clause 18 in Table A of the words 'and all expenses that may have been incurred by the Company by reason of such non-payment'.

GENERAL MEETINGS AND RESOLUTIONS

4. (a) A notice convening a General Meeting shall be required to specify the general nature of the business to be transacted only in the case of special business and Clause 38 in Table A shall be modified accordingly.

All business shall be deemed special that is transacted at an Extraordinary General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the Directors and Auditors, and the appointment of, and the fixing of the remuneration of, the Auditors.

(b) Every notice convening a General Meeting shall comply with the provisions of Section 372(3) of the Act as to giving information to Members in regard to their right to appoint proxies; and notices of and other communications relating to any General Meeting which any Member is entitled to receive shall be sent to the Directors and to the Auditors for the time being of the Company. *

5. (a) Clause 40 in Table A shall be read and construed as if the words 'at the time when the Meeting proceeds to business' were added at the end of the first sentence.

(b) If a quorum is not present within half an hour from the time appointed for a General Meeting the General Meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors may determine; and if at the adjourned General Meeting a quorum is not present within half an hour from the time appointed therefor such adjourned General Meeting shall be dissolved.

(c) Clause 41 in Table A shall not apply to the Company.

APPOINTMENT OF DIRECTORS

6. (a) Clause 64 in Table A shall not apply to the Company.

(b) The maximum number and minimum number respectively of the Directors may be determined from time to time by Ordinary Resolution in General Meeting of the Company. Subject to and in default of any such determination there shall be no maximum number of Directors and the minimum number of Directors shall be two.

(c) The Directors shall not be required to retire by rotation and Clauses 73 to 80 (inclusive) in Table A shall not apply to the Company.

(d) No person shall be appointed a Director at any General Meeting unless either:—

(i) he is recommended by the Directors; or

(ii) not less than fourteen nor more than thirty-five clear days before the date appointed for the General Meeting, notice executed by a Member qualified to vote at the General Meeting has been given to the Company of the intention to propose that person for appointment, together with notice executed by that person of his willingness to be appointed.

(e) Subject to paragraph (d) above, the Company may by Ordinary Resolution in General Meeting appoint any person who is willing to act to be a Director, either to fill a vacancy or as an additional Director.

(f) The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional

Director, provided that the appointment does not cause the number of Directors to exceed any number determined in accordance with paragraph (b) above as the maximum number of Directors and for the time being in force.

BORROWING POWERS

7. The Directors may exercise all the powers of the Company to borrow money without limit as to amount and upon such terms and in such manner as they think fit, and subject (in the case of any security convertible into shares) to Section 80 of the Act to grant any mortgage, charge or standard security over its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

ALTERNATE DIRECTORS

8. (a) An alternate Director shall not be entitled as such to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct, and the first sentence of Clause 66 in Table A shall be modified accordingly.

(b) A Director, or any such other person as is mentioned in Clause 65 in Table A, may act as an alternate Director to represent more than one Director, and an alternate Director shall be entitled at any meeting of the Directors or of any committee of the Directors to one vote for every Director whom he represents in addition to his own vote (if any) as a Director, but he shall count as only one for the purpose of determining whether a quorum is present.

DISQUALIFICATION OF DIRECTORS

9. The office of a Director shall be vacated if he becomes incapable by reason of illness or injury of managing and administering his property and affairs, and Clause 81 in Table A shall be modified accordingly.

GRATUITIES AND PENSIONS

10. (a) The Directors may exercise the powers of the Company conferred by Clause 4(t) of the Memorandum of Association of the Company and shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.

(b) Clause 87 in Table A shall not apply to the Company.

PROCEEDINGS OF DIRECTORS

11. (a) A Director may vote, at any meeting of the Directors or of any committee of the Directors, on any resolution, notwithstanding that it in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest whatsoever, and if he shall vote on any such resolution as aforesaid his vote shall be counted; and in relation to any such resolution as aforesaid he shall (whether or not he shall vote on the same) be taken into account in calculating the quorum present at the meeting.

(b) Clauses 94 to 97 (inclusive) in Table A shall not apply to the Company.

INDEMNITY

12. (a) Every Director or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under Section 144 or Section 727 of the Act in which relief is granted to him by the Court, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by Section 310 of the Act.

(b) Clause 118 in Table A shall not apply to the Company.

Names and addresses of Subscribers

1. For and on behalf of
Instant Companies Limited,
2 Baches Street,
London. N1 6UB

2. For and on behalf of
Swift Incorporations Limited,
2 Baches Street,
London. N1 6UB

Dated 1 AUG 1989

Witness to the above Signatures:—

Terry Jayne,
2 Baches Street,
London. N1 6UB

PLC85

5

FILE COPY

CERTIFICATE OF INCORPORATION

OF A PUBLIC LIMITED COMPANY

No. 2422704

I hereby certify that

MARKETNEW PUBLIC LIMITED COMPANY

is this day incorporated under the Companies Act 1985 as a public company and that the Company is limited.

Given under my hand at the Companies Registration Office,

Cardiff the 14 SEPTEMBER 1989

E. Owen

MRS E. OWEN

an authorised officer

HC008B

FILE COPY

CERTIFICATE OF INCORPORATION

ON CHANGE OF NAME

No. 2422704

I hereby certify that

MARKETNEW PUBLIC LIMITED COMPANY

having by special resolution changed its name,

is now incorporated under the name of

MITCHELL COTTS PLC

Given under my hand at the Companies Registration Office,

Cardiff the 20 DECEMBER 1989

P. BEVAN

an authorised officer

HC005B

A

COMPANIES FORM No. 363

Annual return of a company

363

Pursuant to sections 363 and 364 of the Companies Act 1985

Note The appropriate fee should accompany this form

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

To the Registrar of Companies
(Address overleaf - Note 13)

For official use

Company number 2422704

Annual return of (note 1)

* MITCHELL COTTS PLC

* insert full name of company

The information in this return is as at

26th JULY 19 90 †.(The date of this return note 1)

† If the company has a share capital, this date must be the 14th day after the annual general meeting

Address of registered office of the company

CARDREW HOUSE, 60/63 BUNHILL ROW, LONDON

Postcode EC1Y 8JS

Total amount of indebtedness of the company in respect of mortgages and charges (note 2).

£ ----

If different from the registered office, state address where the register of members or any register of debenture holders or any duplicate or part of any register of debentures is kept or may be inspected.

Register of members

Register of debenture holders

Particulars of the secretary

Name (notes 3 and 4) Nicholas Taliadoros

Previous name(s)(note 3)

Address (notes 4 and 5) 127 Wellmeadow Road
Catford, London

Postcode SE6

‡ only pages 1 and 2 need be completed in the case of a company without share capital

We certify this return which comprises pages 1, 2, [3, 4, 5 and 6]‡ [plus§ _____ continuation sheets]

§ enter number of continuation sheets attached

Signed ..... Director, and ..... Secretary

Presentor's name address and reference (if any):

For official Use
General Section

ANZ
£50
111677

Post room

M X2

Page 1

Please do not write in this margin

Please complete legibly, preferably black type, or bold block lettering

Summary of share capital and debentures continued

	Amount	Number	Class	
6 Amount of discount on the issue of shares which has not been written off at the date of this return	£ nil			
7 Amount per share called up on number of shares of each class	£			1
	£			2
	£			3
8 Total amount of calls received (note 10)	£ 1,190 ,000			
9 Total amount (if any) agreed to be considered as paid on number of shares of each class issued as fully paid up for a consideration other than cash	£ nil			1
	£			2
	£			3
10 Total amount (if any) agreed to be considered as paid on number of shares of each class issued as partly paid up for a consideration other than cash	£ nil			1
	£			2
	£			3
11 Total amount of calls unpaid	£ nil			
12 Total amount of sums (if any) paid by way of commission in respect of any shares or debentures	£ nil			
13 Total amount of the sums (if any) allowed by way of discount for any debentures since the date of the last return	£ nil			
14 Total number of shares of each class forfeited				1
				2
				3
15 Total amount paid (if any) on shares forfeited	£ nil			
16 Total amount of shares for which share warrants to bearer are outstanding	£			
17 Total amount of share warrants to bearer ISSUED	£			
surrendered respectively since the date of the last return SURRENDERED	£			
18 Number of shares comprised in each share warrant to bearer, specifying in the case of warrants of different kinds, particulars of each kind				

AND PRESENT MEMBERS (notes 11 and 12)

Account of Shares					
Number of shares or amount of stock held by existing members at date of return (note 11)	Particulars of shares transferred since the date of the last return, or, in the case of the first return, of the incorporation of the company, by (a) persons who are still members, and (b) persons who have ceased to be members (note 12)			Remarks	
	Number	Date of Registration of transfer (a)	(b)		
1,189,999					1
					2
					3
1					4
					5
					6
					7
					8
					9
					10
					11
					12
					13
					14
1,190,000					15

Page 4

Summary of share capital and debentures

Please do not write in this margin

Nominal share capital: £ 2000000

divided into:-

	Number of shares	Class	Nominal value of each share
1	2000000	ordinary	£ 1.00
2			£
3			£

Please complete legibly, preferably in black type, or bold block lettering

Issued share capital and debentures

	Number	Class
1.Number of shares of each class taken up to the date of this return. 1	1,190,000	ordinary
2		
3		
2.Number of shares of each class issued subject to payment wholly in cash 1	nil	
2		
3		
3.Number of shares of each class issued as fully paid up for aconsideration other than cash 1	nil	
2		
3		

	Amount per share		
4.Number of shares of each class issued as partly paid up for a consideration other than cash and extent to which each such share is so paid up 1	£ nil	nil	nil
2	£		
3	£		
5.Number of shares (if any) of each class issued at a discount 1		nil	nil
2			
3			

Continued on page 4

LIST OF PAST

Folio in register ledger containing particulars	Names and Addresses	
	Temax Holdings Limited	1
	Osprey House, 5 Old Street, St Helier, Jersey C.I.	2
		3
	Igbal Akram, 16 Boulevard Emanuel Servais	4
	2535 Luxembourg, PO Box 604, Luxembourg	5
		6
		7
		8
		9
		10
		11
		12
		13
		14
		15

K.A. ECKHART

DIRECTORSHIPS

M.C. DEVELOPMENT FINANCE LTD

MITCHELL COTTS PLC

MITCHELL COTTS OVERSEAS HOLDINGS LTD

MITCHELL COTTS TEA LTD

UGANDA COMPANY (HOLDINGS) LT.

UGANDA PROPERTIES LIMITED

IQBAL AKRAM

DIRECTORSHIPS

CLARION TANKER (SERVICES) LTD

MITCHELL COTTS PLC

TRANSGULF INTERNATIONAL CO. LTD

M.C. DEVELOPMENT FINANCE LTD

MITCHELL COTTS EAST & CENTRAL AFRICA LTD

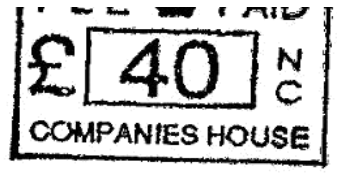
MITCHELL COTTS OVERSEAS HOLDINGS LTD

MITCHELL COTTS TEA LTD

THE UGANDA COMPANY (HOLDINGS) LTD

UGANDA PROPERTIES LTD

No. of Company: 2422704



THE COMPANIES ACT 1985

COMPANY LIMITED BY SHARES

Special Resolution

of

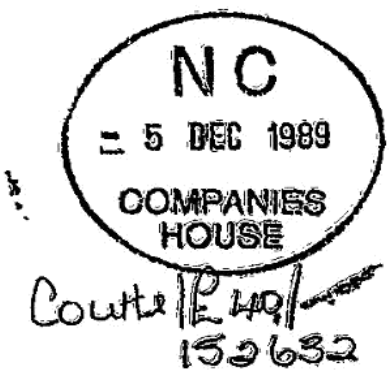
MARKETNEW PUBLIC LIMITED COMPANY

At an Extraordinary General Meeting of the Company held at 3 John Street, London EC1 on 30th November, 1989 the following resolution was duly passed as a Special Resolution of the Company:-

SPECIAL RESOLUTION

THAT the name of the company be changed to MITCHELL COTTS PLC.

.....
Chairman



The Due Diligence information has been provided. As construed from the evidence act, the above evidence is trite that the Uganda Company Limited, Mitchel Cotts Limited and the Market New Public Limited are all United Kingdom Companies. **We are open to the fact that all these companies have been doing business and all their business is done and handled by Yusuf Kagumire former Chief Registrar of Titles.**

The very interesting thing about Mitchell Cotts Limited registered as company number 02422704 is that it holds the incorporation documents of Market New Public Limited

Company. This required us to do a deep dive test on Market New Public Limited Company. Our Investigative team was able to become privy to information from the United Kingdom that the name of Market New Public Limited Company be changed to Mitchell Cotts Public Limited Company and a copy of this documents has been put below for your consideration and review. The Uganda Company Limited that is the Grandfather for this company is company number 0790003 of the United Kingdom that can be obtained with a deep dive for information from the United Kingdom and it was incorporated in 1903. We will now provide you with further Intel. Other due diligence information will be seen as we progress.

So with the above information in our ambit, we are sure that Martin Kasekende did not do the correct due diligence to affirm himself that Yusuf Kagumire and Mitchell Cotts Limited actually had no land at Lubowa. By doing so he acted fraudulently and negligently and will be held liable for these breaches. **The doctrine of liability under the 19th-century common law that is being followed in Uganda is not sufficient and that to deal with unusual situations that have arisen and which are also very much likely to arise again in the future, we have to develop our laws with regards to the use of hazardous or inherently dangerous substances that the industries work with.** The **Supreme Court of India first** time applied this principle in the case of **M.C. Mehta vs. Union of India** which is popularly known as the **Oleum Gas Leak Case.** In this case, **Justice P. N. Bhagwati** observed that companies dealing with hazardous substances must take major action to prevent damages to the community. However, **they cannot take a defence that they were doing reasonable care and attention, and no negligence on their part.** A company and the Directors were held liable for the Union Carbide Corporation case **for the payment of compensation to the victims and their families.** In some cases, the court has held a director liable for prosecution, if there was credible evidence against him for his active participation with criminal intention in case of statutory provision related to vicarious liability. **So there is no way the Director of Public Prosecution can fail to incriminate Martin Kasekende and others for the fraud that they have been part of that we have highlighted above. The Director of Public Prosecution has had these matters before him and cases in Uganda have been sanctioned against people in the same league as Martin Kasekende and such cases include but are not limited to David Chandi Jamwa v Uganda (Criminal Appeal No. of 2017) [2019] UGSC 61 (29 November 2019), Senkeeto v Uganda (Criminal Application No. 146 of 2018) [2019] UGCA 26 (9 April 2019), Obey & 2 Ors v Uganda (Misc Application No's. 045, 046, and 047/2015) [2016] UGHCCRD 43 (30 August 2015) and Uganda v Lwamafa Jimmy & 3 Ors (Criminal Session 3 of 2016) [2018] UGHCACD 11 (21 December 2018)** among others. So there is no reason why the Director of Public Prosecution will have to treat this Martin Kasekende case unique from its peers above.

Other substantive information about this transaction for Lubowa can be obtained from the National Social Security Fund department of Finance and legal because it's there duty to ensure that before any money is paid out, **they have collected all the substantive information that is sufficient and appropriate to justify their payment. This information will include a deed that was executed between the NSSF and the National Housing Corporation, the Board Approvals for such payments, communication from the CEO Leonard Mpuuma and emails and correspondences that were done between both parties before the transaction was fully executed and the people liable for this.** The collection

of such information will also give the anti-corruption unit leads on who to interview and hold as witness that will be used to prove the fraud beyond reasonable doubt in the courts of Law.

Some of the ugly sides to this business were revealed in the book The Panama Papers, whose authors, Bastian Obermayer and Frederik Obermaier, we interviewed for this Journal. Reading the book was like stepping into a different world. Quite convincingly, the two investigative journalists explain how the super-rich of this world can cloak their wealth, shielding it from taxation anywhere in the world, with no real fiscal or legal checks whatsoever. Their book undoubtedly rings a bell for my friend, and probably several others in his line of business. This is a world in which a house for private use, for example in London, is owned by a trust on Jersey, registered to a company in Delaware, and managed by an 'entity' in the Netherlands. The main purpose is to sever the link between the owner and the property, at least in the eye of the law. Does this constitute fraud? It might be correct on paper; so legally you might just get away with it. In the freehold title scam conducted by Yusuf Kagumire and his people something like this was done but with the intention to defraud Ugandans and the Britons.

The more I read this book continuously, the more it will become clear to you that there are two major aspects related to the fight against white collar crime, fraud and corruption. First, there is the repressive/punitive aspect, trying to correct the bad results of fraud and corruption that have been committed and to sanction the fraudulent behaviour and highlighted in this book. Second, there is the 'preventive/solving' aspect, trying to address the root causes of fraud and corruption: highlighting ethics and integrity issues, stressing values and training staff in 'doing the right thing.'

Punitive action against fraud and corruption is essential. But it is like pouring water into the ocean if we do not live up to the values that guide our actions in our personal, professional and social lives. It's even more of a waste if such ethical and integrity issues are not even discussed. This last point is difficult. Take the example of (illegal) tax evasion as compared to the (legally permitted) tax avoidance, of which some practices are morally questionable. Most likely, many of us know people who deal with taxation, sometimes on a daily basis: bankers, tax advisors, trust office employees, tax officers in the civil service making tax rulings, etc. Probably, they are nice people to talk with, to hang out with. But do we bring up the moral dimension of whether they are in the 'right' kind of business? Do we risk being labelled as arrogant moralists? Or worse, pathetic idealists...?Do we actually walk the walk in our daily lives? This is one of the most difficult points: calling on people to live up to the values our society promotes, or at least promotes in public, for example when filling in their tax returns. How we score in the battle between self-interest and the ethical values we feel we have to live up to is an issue examined in our soul search as we become privy to these frauds engineered by people like Yusuf Kagumire and Martin Kasekende among others. To be sure, doing 'the right thing' is not necessarily easy and requires personal courage. When I try to live up to them, and would ask other people to do so – as I could with my friend in the trust business – I might find myself a rather lonely moral crusader.

But finally I know that the anti-corruption unit will help finally unearth this most brazen fraud that was conducted on the contributors of the National Social Security Fund by

Martin Kasekende and others because these people have yielded a lot of hubris and nemesis. If they are any questions do not hesitate to contact me.

Signed

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Jjuuko Joseph Kiyimba
NSSF Contributor and complainant
Partner at Almention Intelsys Company

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